United Nations S/2002/7

Security Council

Distr.: General
2 January 2002

Original: English

Letter dated 2 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Niue, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-22316 (E) 280302

Annex

Note verbale dated 24 December 2001 from the Office for External Affairs of Niue addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Office for External Affairs of the Government of Niue presents its compliments to the Secretary of the Counter-Terrorism Committee of the United Nations.

The Secretary has requested countries to report by 27 December 2001 with regard to Security Council resolution 1373 (2001), which was adopted by the Security Council on 28 September 2001.

The Government of Niue hereby presents its report accordingly (see enclosure).

Enclosure

Report to the Counter-Terrorism Committee of the United Nations Security Council on resolution 1373 (2001)

Niue

Introduction

Niue is one of the world's smallest states. Lying in the middle of the South Pacific between Samoa, the Cook Islands and Tonga, its 259 km of land sits on top of a giant undersea volcano.

The island was first sighted by Captain Cook in 1774 and finally granted protection by the British Crown in 1900. Niue was annexed to New Zealand the following year and administered by it as an overseas territory.

In 1974, Niue chose self-government in free association with New Zealand, rather than full independence from or political integration with its administrator. The Constitution of Niue came into force on 19 October 1974. Niue has full control over domestic and external affairs, and legislative power rests in the democratically elected Assembly.

Due to its relationship with New Zealand, Niue is an associate member of the British Commonwealth and, as such enjoys the protection of the British Crown. Queen Elizabeth II is Head of State.

The resident population of Niue is a little under 2000, most of whom live in the administrative centre, Alofi. Niueans are also New Zealand citizens and up to 20,000 live in New Zealand and Australia.

The relationship with New Zealand ensures a stable political situation in Niue. Both New Zealand and Australia provide aid for the Niuean economy. The majority of the working population is employed by the public service and the private sector has little development. Industries include the export of taros (a root crop) and tourism.

New Zealand currency is used in Niue. The Westpac Bank operates the sole domestic retail bank. There is also a development bank that does not accept deposits. Niue has no exchange control regulations. There are no insurance companies, legal or chartered accounting firms on the island.

In considering the situation in Niue it is very important to understand that the country has a (declining) population of 1,700-1,800. The Government has a very small number of technically skilled people and very limited financial resources.

Background

The setting up of an Offshore Finance Centre was one of Niue's main initiatives to encourage economic growth. The Niue Assembly passed the offshore financial legislation unanimously and seeks to ensure the integrity of the Centre with provisions concerning money laundering, other serious criminal activity and secrecy.

The offshore financial sector currently comprises 2 licensed offshore banks and approximately 6,000 registered international business companies.

The terrorist attacks in New York in September and the subsequent "war on terrorism" has made it urgently necessary for Niue to do something and do it fast. Internationally, efforts have intensified to try and trace financing of terrorism and as a consequence, states with offshore financial sectors have come under more intense scrutiny.

To this end the Monetary Board has reviewed the offshore financial sector, in particular the offshore banking section and after serious consideration has decided not renew any of the existing licences.
It is understood that as of today's date there are now 2 offshore banks with current licences, the last license is expected to expire on 27th February 2002.

Following the passing of resolution 1373 (2001), the Government Niue has commenced its plans to cooperate amending the United Nations Act 1946 to enable its Cabinet of Ministers to make regulations to give effect to the United Nations Security Council resolutions. This was made on 22nd November 2001.

Whilst it would have been ideal to make the regulations before the reporting date of 27 December 2001, Niue has already progressed by holding discussions with New Zealand (Foreign Affairs) as to Niue's requirements for implementation. New Zealand has assured Niue that it will provide Niue with the technical assistance it needs to draft the necessary implementing legislation, probably through a consultant to be appointed as a matter of urgency in the New Year.

Once Niue appoints a consultant to assist it will develop its strategy for complying with resolution 1373.

RESOLUTION 1373

Paragraph 1

a) **What measures, if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d).**

b) **What are the offences and penalties in Niue with respect to the activities listed in this sub-paragraph?**

c) **What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any action taken.**

d) **What measures exist to prohibit the activities listed in this sub-paragraph?**

Niue does not have legislation that defines terrorism and the financing of terrorism as a criminal offence. There are, however, plans to amend the relevant legislation. New Zealand has offered to provide technical assistance in the form of a drafting consultant, and that discussions with New Zealand indicate that assistance will be provided as early as possible in the new year.

The Proceeds of Crime Act 1998 and the Financial Transactions Reporting Act 2000 impose obligations to "know your customer" and report suspicious transactions. They also provide for the establishment of a Financial Intelligence Unit, make money laundering a criminal offence and extend the gateways for information sharing relating to specific transactions where a crime is suspected.
However, these Acts do not cover the sole domestic bank (a branch of an Australian registered bank). Developing capacity in this area is a priority for Niue, because of the FATF requirements and also because of the events of September 11, and Niue is actively seeking assistance from New Zealand and Pacific regional organisations such as the Pacific Island Forum in this regard.

The sole domestic bank, Westpac, has implemented international standard procedures as laid down by Australian authorities and they report suspicious transactions to their Sydney Head Office.

There is no existing legislation which expressly deals with the freezing of assets or accounts but it may be included under the Proceeds of Crime Act 1998 or included/introduced in other legislation.

Paragraph 2

a) **What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in Niue prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?**

b) **What other steps are being taken to prevent the commission of terrorist act, and in particular, what early warning mechanisms exist to allow exchange of information with other states?**

With Niue's small population, there are no terrorist groups on the island. Such a small population means that knowledge about "anything and everything" is widespread and any newcomers to the island are easily spotted.
With Niue's limited industrial industry, there are no factories that manufacture weapons for any military use. In terms of the supply of weapons, Niue's limited air and shipping routes makes it an unlikely transit point.

c) What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

Under the Entry, Residence and Departure Act 1985 any person who visits Niue must apply for a permit within 30 days if they wish to reside longer on Niue. Each person who applies must provide the following information:

a) at least two character references of the applicant; and
b) a police report and health clearances from the relevant officials of the applicant's home country; and
c) any other information that the Ministers of Cabinet may from time to time specify or require

The Act provides that Cabinet may order any immigrant to leave Niue if it has reasonable cause to believe that such immigrant is a source of danger to the peace, order, or good governance of Niue.

d) What legislation or procedures exist to prevent terrorists acting from Niue against other states or citizens? (supply examples, where possible).

No other legislation or procedures currently exist, on account of the fact that terrorism has never been a problem on Niue. However, when the drafting consultant commences work on the implementation of UNSCR 1373, he or she will review Niue's legislative framework to see where there are gaps that might need additional measures.

e) What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? (supply examples where necessary).
f) What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

Niue plans to include terrorist acts and serious criminal offences in its legislation in the very near future. New Zealand has indicated that it will assist Niue with this and it is likely that Niue's legislation will be modeled on New Zealand's legislation or other appropriate legislation developed in the similar Pacific Island states.

A special regime exists regarding the return of offenders from Niue to New Zealand and the Cook Islands. The offender is returned on the basis of a foreign-issued warrant. Once that warrant has been authenticated by a judge of the High Court of Niue, the Niue Act 1966 (New Zealand law) requires that the offender be returned unless the High Court is of the opinion that the return would cause undue hardship or would otherwise be unjustifiable or inexpedient. The return to Niue of offenders who are found in New Zealand follows an identical procedure.

In respect of other jurisdictions, the applicable law is found in section 320 of the Niue Act 1966 (New Zealand), which provides that the Extradition Act 1965 (New Zealand) is Niue law and also provides a number of adaptations of that law to Niue circumstances. The Extradition Act was amended in 1998 and now includes money laundering as an offence for which a person may be extradited.

The Fugitive Offenders Act 1881 (UK) is also in force in Niue. The Act provides that, where a person accused of having committed an offense in one part of the Commonwealth has left that area and is found in another part of the Commonwealth, the person can be apprehended and returned to the part of the Commonwealth where the offense was committed. The phrase "part of the Commonwealth" is defined in the Fugitive Offenders Amendment Act 1976 (New Zealand) to include any county that is a member of the Commonwealth.

g) How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc?

All Niueans are New Zealand citizens and hold New Zealand passports. The New Zealand High Commission on Niue issues all New Zealand passports.

Niue has three flights per week and all flights fly from Tonga/Niue/Tonga on a "Shorts 360" aircraft (capacity of 30 seats). Niue is not a transit point for any other routes. Border controls are therefore checked at other destinations such as Tonga and New Zealand.

In terms of shipping, there are two cargo ships that visit Niue each month, both originating and ending in New Zealand. The only area of concern would be for yachts that visit generally during the months of April to November and also the occasional private jet that calls into Niue for refueling purposes.

It must be noted that with a population of around 1700 – 1800, any foreigners to the island do not go unnoticed.

Paragraph 3

a) What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

b) What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

c) What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

The Mutual Assistance in Criminal Matters Act 1998 relates to the provision and obtaining of international assistance in criminal matters. This Act was passed in efforts to strengthen legislation relating to Niue's offshore financial sector, in particular, money laundering.

The Niue Police Department cooperates with Interpol queries upon request. There is also an informal network amongst regional offshore centres which provides information on "blacklisted" individuals or companies suspected of money laundering and other activities. These do not extend to terrorists or acts of terrorism or even financing of terrorism and Niue will be keen to introduce this element.
The Pacific Islands Forum Secretariat is in the process of establishing a regional Financial Intelligence Unit and Niue will be seeking to include terrorist activities and financing of terrorist activities as part of the regional network of sharing information.

d) What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

e) Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

Niue has acceded to the following Conventions by virtue of its constitutional relationship with New Zealand. On accession New Zealand declared the Conventions applicable to Niue:

- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents
- International Convention Against the Taking of Hostages

The Niue Government is committed to playing its part in terms of combating terrorism and illegal financing operations. The Government will be reviewing each of the Conventions over the coming months. Niue's tiny population means that there may be capacity and implementation issues where Niue will need technical or financial assistance, before Niue can ratify

f) What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.

g) What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

With Niue's tiny population, Niue has not accepted refugees or those seeking political asylum as it does not have the infrastructure or the resources to deal with them.

United Nations S/2002/8

Security Council

Distr.: General
2 January 2002

Original: English

Letter dated 2 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Italy, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-22280 (E) 010402

Annex

Letter dated 27 December 2001 from the Chargé d'affaires a.i. of the Permanent Mission of Italy to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to transmit herewith enclosed the national report on the counter-terrorism measures in force in Italy, prepared according to paragraph 6 of resolution 1373 (2001) of the Security Council (see enclosure). All the aspects of the counter-terrorism fight in Italy, including legislative, administrative and operational measures are therein uncovered. The report describes in a comprehensive manner the operative steps adopted in different sectors such as the action against the financing of terrorism, police and law enforcement, security of transportation and prevention of bioterrorism.

(*Signed*) Pier Benedetto **Francese**
Chargé d'affaires a.i.

Enclosure

National report of the Republic of Italy pursuant to paragraph 6 of United Nations Security Council resolution 1373 (2001)

1. Introduction

This report, submitted pursuant to paragraph 6 of UNSCR 1373 (2001), sets out the measures that the Italian Government has adopted in order to comply fully with the internationally adopted decisions to combat terrorism, both by adjusting its domestic legislation and through specific actions at the operational level. In its recent history, Italy has successfully fought a very hard battle not only against violent domestic terrorism, but also against highly aggressive forms of organised crime. In the course of this battle, Italy has fine-tuned its domestic legislation to deal with such crimes without at the same time weakening its Constitutional guarantees and the fundamental freedoms of the individual. The measures referred to in this report are therefore very often the result of a combination of existing legislation and newly-enacted legislative provisions. Furthermore, the existence of criminals whose roots are not only domestic, and the fact that they are conversant with advanced financial techniques, has led the Italian Government to adopt legislation designed to strike efficiently and globally at their financial assets.

In implementing the guidelines issued by the Prime Minister, the Government's action to combat terrorism involves a coordinated effort by the main Governmental Departments - Foreign Affairs, Home Affairs, Defence, the Economy, Infrastructure, Health - as well as the Bank of Italy, the Police, the "Carabinieri" (one of Italian Armed Forces with responsibility for territorial police), the "Guardia di Finanza" (Customs and Excise Police) and the Intelligence Services. In order to adequately take up the challenge posed by this new and extremely threatening attempt to undermine the rule of law and our fundamental freedoms, the Government has also set up specific inter-Departmental coordination bodies to deal with operational issues, and has greatly enhanced existing ones. These bodies work together, each providing their own specific input of skills and powers, and provide a coherent framework to combat terrorism with the required instruments in all its various manifestations.

The "Political-Military Unit" - NPM, established at the Office of the Prime Minister, reports directly to the Prime Minister and its role, its powers and responsibilities have been strengthened following the emergency derived from the 11 September events. The members of this Unit are senior representatives of all the Government Departments and Agencies responsible for combating terrorism and protecting the population throughout Italy; the NPM is therefore the body with the most wide-ranging and comprehensive functions. The NPM has coordinated the updating of the National Emergency Plan to deal with any CRBN attacks, with special attention to the measures adopted following the recent spell of anthrax attacks. The NPM has also coordinated action plans and operations relating to transport safety, bio-terrorism, the strengthening of preventive operations and the suppression of terrorist crime by the Police forces, and the enhancement of preemptive measures, civil and military. Equally important in this connection is the role of the "Committee for Security and Public Order", chaired by the Minister of Home Affairs, which has a long established coordination responsibility and whose remit has been further extended.

The "Financial Security Committee" - CSF - chaired by the Director-General of the Treasury, is responsible for monitoring the prevention and suppression of illegal terrorist financing. It brings together all the Government Departments and bodies operating in this field, with far-reaching powers which include that of obtaining information from the officials and Government Departments, in waiver of the Official Secrecy Act. The Bank of Italy has issued instructions to financial intermediaries requiring them to notify the "Ufficio Italiano Cambi" - UIC - (Italian Exchange Office and Financial Intelligence Unit) of any suspicious transactions linked in any way to individuals, entities or companies that may in any way be connected with the events of 11 September. This system has enabled Italy to adopt measures to order the sequestration of assets, subject to confirmation by the Courts, even before legislation was issued to fully incorporate into Italian law the provisions on freezing of assets adopted by the UN and the EU. As the G-20 has recognised, Italy has so far had excellent results in combating the financing of terrorism. By way of example, by 11 December 2001, 79 individuals and entities had had their assets frozen, comprising 31 bank accounts, 43 insurance policies and 4 investment funds; the total value of the frozen assets was € 228,662.65 and $ 298,189.11 (of which € 107,142.81 and $ 298,189.11, respectively, in bank deposits, € 67,247.85 in insurance policies, and € 54,271.98 in investment funds).

A "Coordinating Structure for International Counter-Terrorism Cooperation", has been instituted at the Ministry of Foreign Affairs as a means of stepping up the response to the emergency caused by the events of 11 September. Its purpose is to coordinate and facilitate a consistent effort by Italy in the international fora responsible for combating terrorism in all its forms. This applies to actions undertaken within the UN, the G7 and G8, the EU, the Council of Europe, the OSCE, etc., as well as bilaterally, through appropriate coordination both within the Ministry of Foreign Affairs, and in liaison with the other Government Departments concerned. This body has been specifically designated as the National Contact Point of the Counter-terrorism Committee (CTC), established by the Security Council.

Italy is also making an active contribution within the European Union. The Laeken European Council (14-15 December 2001) emphasised that the implementation of the Action Plan adopted by the EU on 21 September is moving according to schedule, particularly thanks to the agreement on the European arrest warrant, the common definition of the crime of terrorism, the drafting of a common list of individuals and terrorist organisations, the strengthening of co-operation between specialised services, and the adoption of measures to freeze assets in accordance with UNSCR 1373(2001). The European Union is submitting a report to the CTC on the measures adopted by the 15 member countries, falling within the sphere of competence of the Union; this report therefore indicates actions taken at the national level and refers to the EU report in respect of the measures decided at its level, to which Italy fully abides.

Italy's experience in combating terrorism and the vast amount of legislation and regulations that have been put in place across the years, have enabled it to react very rapidly to the events of 11 September; the emergency adjustment of Italian legislation has already been completed and the operational procedures strengthened and made fully effective. The response to the threat posed by terrorism will require a coordinated effort on the part of the whole international community and, bearing in mind in particular the commitments entered into under UNSCR 1377, Italy is ready to cooperate actively by placing its technical expertise and legislative and administrative best practices at the disposal of the United Nations.

UNSCR 1373 Operative Paragraph 1

1 (a): ***What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?***

Current Italian criminal law suppresses terrorist actions by whomsoever and howsoever committed; the measures that have been adopted in the past few weeks further strengthen the existing statutory framework. Within Europe, the EU Directive against money laundering marks a major step forward in this direction. Furthermore, the ratification of the United Nations Convention on the Suppression of the Financing of Terrorism (1999) is also particularly important. To hasten this process a special Working Group has been instituted to examine the changes which have to be made to Italy's domestic legislation.

Under Decree Law No.374 of 18 October 2001, enacted as Law No. 438 of 15 December 2001 (Decree Law 374/2001), the Italian Government has adopted urgent measures to combat international terrorism. Section 7 of that Decree, referring to section 18 of Law 152/1975, applies the provisions of the Anti-mafia Act (Law 575/1965) to international terrorism. This measure extends the application of pre-emptive and preventive measures involving restrictions on personal freedom (internal exile, surveillance), the investigation of economic and financial assets extended to those of family members; the sequestration and confiscation of goods acquired as a result of illegal activities or of assets into which illegally acquired assets have been reinvested, to anyone performing any action in preparation for the commission of terrorist crimes, whether domestic or international.

At the institutional level, two major innovations deserve mention. The first is the establishment, under Decree Law No. 369 of 12 October 2001, enacted as Law No 431 of 14 December 2001 (Decree Law 369/2001), of the "Financial Security Committee" -CSF- chaired by the Director-General of the Treasury, and made up of representatives of the Home Affairs, Foreign Affairs, Justice and Defence Ministries, as well as the Bank of Italy, CONSOB (the Stock Exchange Commission), UIC, "Guardia di Finanza" (Customs and Excise Police), DIA (Anti-Mafia Directorate) and the "Carabinieri". The remit given to this Committee is to monitor the way in which the prevention system operates and how the sanctions are imposed (on persons violating national legislation, with particular reference to EU regulations prohibiting the export of goods and services, bans on flights, or the freezing of capital assets). The decree also makes it possible in future to avoid having to enact "ad hoc" special

legislative instruments to lay down penalties for violations of EU regulations, because the administrative penalties will henceforth be automatically applicable. The Committee has also been vested with special powers to acquire intelligence and information in possession of Government Departments and the civil service, even if this involves waiving the Official Secrecy Act, and where necessary to request further investigations from the UIC, the CONSOB and the "Guardia di Finanza".

With regard to the Intelligence and security services, the Prime Ministerial Decree dated 23.10.2001 has vested the Permanent Working Group established at the Secretariat General of CESIS (the Executive Committee of the Intelligence and Security Services) with the task of coordinating the information-gathering work of the Intelligence Services and that of other Government Departments in respect of financial activities contrary to national security, and in particular of activities relating to terrorism. This working group, which is known as the "Committee for coordinating intelligence on financial assets", acts in accordance with the guidelines proposed by the Minister for the Economy and decided by the Prime Minister.

1(b):*What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?*

Italy's experience in combating domestic terrorism and mafia crimes has provided the country with a wide ranging set of rules and regulations to counter this new form of terrorism. In addition to existing legislation, Decree Law 374/2001, mentioned earlier, criminalizes the financing of both international and domestic terrorist activities. Section 1 ("Provisions relating to conspiracy for the purposes of domestic or international terrorism") updates article 270-bis of the Criminal Code and provides that "anyone promoting, instituting, organising, managing or financing organisations whose purpose is to propose acts of violence for the purposes of terrorism or for subverting the democratic order shall be liable for a term of imprisonment of between seven and fifteen years", and that "anyone participating in the aforementioned organisations shall be liable for a term of imprisonment of between five and ten years", specifying that "the pursuit of terrorism shall also apply when the acts of violence are directed against a foreign state, or an international organisation or institution". The same article 1 also contemplates the crime of "providing assistance to associated persons" in article 270-ter of the Criminal Code, for which the penalty is a term of imprisonment of a maximum of four years.

Law 152/1975 for the protection of public order, empowers the members of the judicial police force and the ordinary police force, in cases of necessity and when urgently required, to conduct spot checks and/or search individuals and/or vehicles in order to ascertain whether they are in possession of offensive weapons and/or tools for the purposes of breaking and entering. These provisions also apply to anyone performing actions to subvert the State and/or to anyone instigating, master-minding and/or financing them.

1(c):*What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.*

Article 2 of EU Regulation 467/2001 of 6 March 2001, and subsequent amendments thereto in implementation of UNSCR 1267/1999 and 1333/2000, provides for the freezing of all capital assets and other financial resources belonging to any individual or legal person or organisation designated by the Security Council Committee concerning Afghanistan issues, established pursuant to Resolution 1267 (1999). Italian legislation, with the enactment of Decree Law No.353 of 28 September 2001, enacted as Law No. 415 of 27 November 2001 (Decree Law 353/2001, providing penalties for infringements of the measures adopted against the Taliban) imposes administrative fines for infringements of Regulation 467, takes on board the lists of names to which these provisions and subsequent updates apply, and establishes penalties in conformity with articles 247 and 250 of the Criminal Code. These penalties, relating to acts committed against the personality of the State, concern respectively aiding and abetting acts of war and trading with the enemy.

Section 2 of Decree Law 369/2001 provides that any acts performed in violation of the provisions banning the export of goods and services and of the provisions calling for the freezing of capital and other financial resources, as set out in the Regulations adopted by the European Union Council, including in implementation of United Nations Security Council Resolutions, are null and void.

It should also be recalled that there exist a number of administrative instruments that facilitate the enforcement of freezing measures of funds, established under international law (United Nations Resolutions,

European Commission Regulations) as well as by Decree Law 353/2001. In particular, the Bank of Italy has issued instructions to financial intermediaries to report to the UIC any suspicious transactions traceable to individuals, entities or companies that are linked in any way whatsoever with the events that occurred in the United States on 11 September, referring to EU Regulations 467 and 1354 of 2001, as well as to the list drawn up by the Basle-based Banking Supervisory Committee.

Furthermore, in view of the fact that the suppression of illicit funding of international terrorism requires an active role on the part of the banks and financial intermediaries, and of the fact that such a role has now been substantially expanded, and considering the need to make the UIC reporting system and the connected financial investigations activities more efficient, the UIC, acting in its capacity as Italy's Financial Intelligence Unit (FIU), issued specific instructions to banks and the financial intermediaries on 9.11.2001. In the said instructions, the UIC has specifically asked banks and financial intermediaries: 1) to notify any measures adopted to freeze funds; 2) to report any operations or relations which, according to the information available, are traceable to individuals or entities named in the lists published by the UIC, including those posted on its Internet website (www.uic.it/liste/terrorismo.htm); 3) to promptly notify the UIC of any operations and relations connected to the financing of terrorism, in order to be able to suspend those activities if necessary.

As of 11 December 2001, in application of the abovementioned measures, 79 freezing orders had been issued, relating in particular to 31 bank accounts, 43 insurance policies and 4 common funds, for a total of € 228,662.65 and $ 298,189.11 of frozen funds (of which respectively € 107,142.81 and $ 298,189.11 of bank deposits, € 67,247.85 in insurance policies and € 54,271.98 in investment funds).

Sub-paragraph (d): ***What measures exist to prohibit the activities listed in this sub-paragraph?***

Decree Law 353/2001, freezes all cash transfers to any of the individuals named in the list annexed to Regulation 467, as subsequently updated.

Law 197/1991, as amended by Legislative Decree 153/1997, is also of relevance here. In compliance with international rules to combat money laundering (in particular the FATF - Financial Action Task Force - Recommendations, EU Directive 308/91, and the European Council Decision of 17.10.2000 on the exchange of information between FIUs), it provides measures to monitor the banking and financial systems for the purposes of preventing and combating money laundering (identifying customers, recording operations in excess of 20 million lire and continuous financial relations, and notifying suspicious transactions). The same measures are now applied for preventing and combating the financing of terrorism because this crime is now governed by the new criminal provisions of Decree Law 374/2001, which make it one of the wilful crimes falling within the scope of the provisions against money-laundering.

UNSCR 1373 Operative Paragraph 2

2(a): What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

As indicated above, Decree Law 374/2001 makes it a crime merely to take part in any preparatory activities in association with others for the commission of acts of terrorism. In particular, it expands the application of the regime for judicial wire-tapping and the searching of buildings or blocks of buildings to cover cases of crimes committed for the purposes of international terrorism (section 3); it introduces ad hoc provisions to permit undercover operations, and to delay the issue of arrest warrants, the arrest of individuals and the seizure of property in this connection (section 4); it extends to counter-terrorism investigations the possibility of carrying out preventive wire-tapping (section 5) and the interception of communications between persons present, in connection with the search for fugitives from the law (section 6).

With regard to the issue of recruitment of activists to be trained and then sent to places where they will subsequently engage in terrorist activities, the new legislation opens up new scope for intervention by creating new criminal offences. In April 2001, however, in order to confront this phenomenon and in the absence of specific legislative provisions to this effect, recourse was made in one instance to Law 210/1995, ratifying the

International Convention Against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the UN General Assembly in New York on 4 December 1989.

With regard to preventing the supply of weapons to members of associations or groups with the purpose of terrorism, Italian legislation already provides suitable legislative measures for effectively controlling the circulation of weapons (Law 895/1967, Law 110/1975 and Law 185/1990), through a tightly controlled system of issuing permits for imports and exports, the registration of companies and data, prior investigations of individuals and the imposition of stringent criminal penalties on offenders. As a member state of the EU, Italy also applies the restrictive criteria laid down in EU Directive 477/1991 regarding the acquisition and holding of weapons, and the 1998 European Code of Conduct regarding the export of documents. In this latter connection, it should be noted that the aforementioned Decree-Law 374/2001 incorporates (in section 1(2)) the list of "weapons of war" referred to in Law 110/1975, to include "aggressive biological and radioactive substances". It should also be noted that Section 22 of law 93/2001 has introduced into the Italian legal system the crime of "organising the traffic in waste", with penalties of imprisonment for between three and eight years in the case of highly radioactive waste. This provision is particularly useful for combating the transfer of any kind of radioactive materials that are not specifically classifiable as "aggressive".

As far as fact-finding and prevention are concerned, a particularly important aspect is that of international cooperation and the exchange of intelligence with related foreign organisations, both in established fora and through informal contacts for specific and urgent cases. In this framework, the operative exchange of intelligence through the "Police Working Group on Terrorism" circuit has proved highly effective. This Group is composed of seventeen countries (fifteen EU countries plus Switzerland and Norway), and it provides for the immediate transfer of intelligence between specialized counter-terrorism organisations. With regard to the other measures used to combat terrorism, mention should be made of the exchange of information at the international level. The Europol channel, in accordance with the tasks recently assigned to it by the European Union to combat terrorism, and that of Interpol, in dealings with third countries, are used for this purpose. The "counter terrorism" Working Group established under EU Pillar III, also carries out important function in the drafting of common projects, and in ensuring participation in the work of joint groups (Euromed, Formed) between EU and Mediterranean basin countries.

2(b): ***What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?***

As indicated above, Decree-Law 369/2001 providing "urgent measures to suppress and combat the financing of international terrorism", has enriched the scenario of institutions dedicated to combating terrorism, which had hitherto been the preserve of the police forces and the Intelligence and Security Services (SISDE and SISMI).

This Decree-Law, taking also into account the "Declaration" adopted on 6 October 2001 by the Finance Ministers of the G-7 Countries, created a "Financial Security Committee" - CSF - at the Ministry of the Economy and Finance. This Committee, acting jointly with the Bank of Italy, is required to identify the data and information "acquired on the basis of current legislation to combat money-laundering and illegal money-lending and to govern financial intermediaries", which Government Departments are obliged to submit for the purposes of any investigations and enquiries that may be deemed necessary.

The Chairman of this Committee is empowered to submit data and information to CESIS (the Executive Committee of the Intelligence and Security Services) and to the Directors of the Intelligence and Security Services, so as to enable the prime Minister to carry out the coordination function for which he is responsible under section 1 of Law 801/1977. The CSF is also responsible for cooperating with the agencies performing similar functions in other countries, in order to improve international coordination also in light of the relevant decisions taken by the "Financial Action Task Force" (FATF).

At the operational level, the preventive and pre-emptive activities performed by the police forces have been stepped up and precautionary measures, both of a civilian and military nature, have been implemented. The Government has approved a "Programme for the Use of Military Contingents for the Surveillance and Control of Sensitive Objectives"; over 4000 servicemen are being used to guard over 150 military objectives and civilian infrastructure sites deemed to be at risk (barracks, transmission and communications centres, public utilities, port, airport and railway facilities and installations). A number of alarm procedures have been enacted in accordance

with the "National Precautionary Alarm System", relating to heightened military intelligence-gathering activities, to the low-profile protection of installations and military personnel, to the implementation of plans for the protection of military facilities and personnel, to the protection of military intelligence, to the implementation of plans to protect the Government and to preparedness measures by the nationwide Civil Defence organisations.

For the purpose of preventing acts of terrorism, an important part is played by the action plans drawn up in the crucial sectors of infrastructure, transport and public health. With regard to the measures adopted in the area of transport, the rules governing activities prior to the take-off of commercial aircraft have been critically overhauled, in coordination with the "Political Military Unit" (NPM) set up at the Office of the Prime Minister, and the new amended procedures have been adopted as the "National Security Programme" for airports and air transport. A raft of measures have been enacted to guarantee the security of Italian airports and to prevent acts of terrorism, such as: the "National Security Programme" regulations; security checks of passengers and hand luggage; security checks of baggage carried in the hold; security measures for potential exposure to risks and for sensitive flights; security checks of diplomatic personnel, special cases, crew members and airport personnel, and security checks of aircraft. A programme of on-site inspections to minor airports is currently underway to improve security conditions and, where necessary, to adopt operational restrictions.

In the field of rail transport, ad hoc surveillance has been stepped up over the rail networks and around a number of sites and facilities deemed to be sensitive, and personnel (particularly the operational staff) has been alerted to the prohibition of access by outsiders to train driving cabins, the secure locking of storerooms and other facilities other than in times of normal use, the control of equipment installed in train compartments, the need to ascertain the identity of engine drivers and travelling staff, and to notify the Railway Police of any thefts or loss of documents and/or uniforms, baggage or any other objects left unattended, and of any other non authorized persons found on the premises of facilities, service rooms or restricted areas. With regard to overland transport, measures have been adopted to protect such sensitive areas as galleries and tunnels, viaducts and overpasses and fixed facilities. In the field of maritime transport, measures have been adopted to tighten up security around the main harbour installations and in such sensitive areas as passenger access and identification. A Working Party has also been instituted to draft a Port Security Plan.

With regard to public health, an interdisciplinary Working Group has been created to deal with the consequences of the possible use of biological or chemical weapons. A plan for a rapid and effective response to situations that might create a serious threat to human health has also been distributed; it calls for each individual Regional authorities to activate Crisis Units and to identify centres and healthcare structures with the aim of creating a standardised care network at nationwide level. Furthermore, an early-warning system has been established to signal any unforeseen events that could lead to biological, chemical-toxicological and physical hazards, together with a specific protocol for conducting international rapid tests on any suspect material. Lastly, all the local Offices responsible for conducting international prophylactic measures on individuals, goods and migrants (namely, all the activities and measures relating to people, property and vehicles crossing the national border, in order to protect public health and persons from exposure to biological, chemical or physical risk factors) have been urged to step up their vigilance in relation to these tasks.

In order to guarantee the maximum transparency and provide the public with the maximum amount of information, a toll-free number has been instituted to be used by members of the public and members of the medical professions. This toll-free number serves a double purpose: on the one hand, it reassures the general public and provides it with reliable and accurate information, and on the other it records any reports from the medical professions, assesses the quality of those reports and distributes the information to the competent authorities and agencies.

For the purposes of information, all documentation concerning any biological and chemical agents that might be used for the purposes of terrorism, together with prophylactic and containment measures, and the list of useful drugs for dealing with them, have been made available to the Regional Authorities, the Local Health Boards, hospitals and the medical associations, and to the competent Government Departments. Lastly, a protocol has been drawn up defining the procedures to be followed with materials suspected of being contaminated with B.anthracis spores, which indicates which materials must be considered suspect, alarm procedures and the measures to be taken for taking samples and transporting them, and treating the possible contaminant to render it harmless.

2(c): ***What legislation or procedures exist for denying safe haven to terrorists such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.***

With regard to the provisions for excluding anyone suspected of belonging to terrorist organisations, section 13 of Legislative Decree 286/1998 empowers the Italian Minister of Home Affairs to deport anyone deemed a threat to public order and safety, which includes persons presumed to belong to the aforementioned criminal associations and organisations.

Italy, as a party to the Schengen Convention, which was ratified by Law 388/1993, also checks every visa application against the Schengen Information System (SIS) and in the case of nationals from sensitive countries, it carries out security checks in consultation with the other member States. It should also be recalled that pursuant to Section 2(2) of the ratification Law, "for the purposes of public order or national security, a contracting Party may, after consultation with the other contracting Parties, decide that for a limited period of time, national border controls may be carried out at its borders as appropriate for the situation. If, for reasons of public order or national security, immediate action is required the contracting Party concerned shall adopt all the necessary measures and inform the other contracting Parties as soon as possible".

After 11 September, Italy autonomously adopted a more selective approach to the entry of foreign nationals into Italy. This attitude involved the adoption of more stringent measures, but also heightened attention to such issues as combating illegal immigration and the role of foreign nationals in our country. Specific measures were adopted in four areas:

a) Visas. Italy has promoted an initiative within the European Union to study the ways of combating more effectively terrorism by carrying out controls prior to entry into the Schengen area of foreign nationals. Italy has also requested that a fresh impetus be given to consular cooperation through improved coordination and a homogeneous and structured exchange of information between all consular offices, beginning with those in the most sensitive areas. On 6 and 7 December 2001, 27 Italian Ambassadors in the most sensitive countries were called to a special meeting at the Ministry of Foreign Affairs, in order to carry out a thorough review of the criteria and procedures for admitting foreign nationals to Italy.

b) Readmission Agreements provide the ways and means for identifying and returning illegal immigrants to their home countries, and are therefore useful instruments for combating illegal immigration. Italy has been engaged for many years in setting up a wide-ranging network of such agreements and intends to step up its action in this regard. Identifying and expelling anyone seeking to enter Italy illegally is now also a clear security requirement. At the present time, there are 19 readmission agreements in force (with Albania, Austria, Bulgaria, Croatia, Estonia, France, FYROM, Greece, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, Spain, Switzerland, Tunisia, and Yugoslavia), while another five have already been signed and are currently awaiting formal ratification (with Algeria, Georgia, Morocco, Nigeria, Sri Lanka). It is important to emphasise that Italy's approach is not limited only to neighbouring countries but covers also more far-flung countries, particularly in Central Asia, from where an increasing migration flow is to be expected in the future, which could have implications also in respect of the risk of terrorism. Contacts have already been made to negotiate agreements with Pakistan, Bangladesh, Iran and India.

c) The Government Draft Reform Bill of the Immigration Act, which is currently being debated in Parliament, has introduced a number of new provisions designed to step up the prevention of illegal immigration. Firstly, it requires foreign nationals served with a deportation order to be actually escorted to the Italian border (and not simply be ordered to leave Italy). The Bill has also doubled (from 30 to 60 days) the period of time during which a foreign national, who is not legally present in Italy, may be detained in a Temporary Reception Centre for the purposes of identification (which is essential in order to make repatriation possible). Criminal penalties have also been greatly increased to deal with illegal immigrants repeatedly found in the country after having been served with deportation orders, and for anyone who, in any way whatsoever, aids and abets the illegal entry of foreign nationals into Italy.

d) The right to political asylum is regulated in Italy by section 1 of Law 39/1990 and a number of the provisions in the Immigration Act. Under these provisions, a special agency, the Central Commission for the Recognition of Refugee Status, is responsible for examining all applications for asylum and deciding whether or not to grant the status of political refugee. The provisions for political asylum have also been revised in the Draft Reform Bill of the Immigration Act, which deals specifically with bogus asylum applications submitted solely to

evade the execution of deportation orders. The Bill provides that whenever the request for political asylum is made by certain categories of individuals who are deemed to be most at risk, a streamlined procedure can be adopted and the persons concerned are to be held in Temporary Reception Centres until the application has been examined.

2(d): ***What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.***

The new rules introduced into the Criminal Code with article 270-bis cover all the cases referred to in this paragraph, and contemplate the new criminal offence of conspiring for the commission of acts of international terrorism; article 270-ter also introduces the crime of aiding and abetting conspirators, which is punished with imprisonment for up to 4 years.

Particularly important among the new legislative provisions in terms of prevention is the fact that during the course of investigations into terrorist crimes, it is now possible to carry out undercover operations under the control of the Courts. The right to carry out preventive wire-tapping, under the direct responsibility of the Public Prosecutor and for an appropriate period of time, allows the collecting of intelligence on with respect to situations which may pose serious threat to domestic and international security. The devolution of the territorial jurisdiction for combating terrorist crimes to the Public Prosecutor of the chief town of the judicial district, will help to rationalise judicial action.

At the moment Italy is investigating crimes of international terrorism committed in Rome in relation to the 11 September New York massacre, for which the Italian Courts are responsible since Italian citizens were involved. Preliminary investigations are also being conducted into Algerian nationals suspected of belonging to organisations linked to EL-QAEDA, as has been widely reported in the media.

For further information, it is worthwhile recalling a number of provisions in the Italian Criminal Code. Article 110 makes any person aiding and abetting crime liable for that same crime, and therefore makes it possible to prosecute anyone financing individual acts of terrorism; art.240(1) involves the seizure of funds of this kind; the illegal establishment of and participation in international conspiracies constitute crimes punishable under Articles 273 and 274. Other cases, such as terrorist bombing, devastation, looting and multiple murder, and attacks against constitutional organs of the State and regional assemblies are provided by articles 280, 285 and 289. Article 289-bis introduces the punishment for abducting individuals for terrorist purposes; article 294 deals with the political rights of the citizens, article 306 provides penalties for establishing or taking part in armed gangs, and, lastly, article 312 sanctions the expulsion of foreign nationals who have been found guilty of these crimes.

2(e): ***What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.***

Decree Law 374/2001 provides that "anyone who promotes, creates, organises, manages or finances" such organisations shall be liable for a term of imprisonment of between seven and fifteen years; "anyone who participates" in such organisations for the purpose of committing acts of international terrorism shall be liable to a term of imprisonment of between 5 and 10 years; "anyone who, even if not aiding and abetting the commission of a crime, gives refuge, hospitality, or provides vehicles or means of communication ... may be imprisoned for up to 4 years", with an increased penalty in the event that such aiding and abetting is provided on a continuous basis. All acts committed for the purposes of terrorism are considered serious both as far as the punishment provided by general rules is concerned, and in relation to the Court having jurisdiction (the Court of Assizes). The seriousness is reflected further in the fact that the attenuating circumstances to reduce the penalties are applicable to a lesser degree and that the prison sentences have to be served in high-security establishments.

This Decree Law has, among other things, updated article 270-bis of the Criminal Code and has further strengthened the system of the criminal law provisions already in force. In particular, the most relevant rules for combating domestic terrorism are contained in article 270 of the Criminal Code, which contemplates the crime of setting up subversive organisations; in article 270-bis which contemplates the crime of conspiracy for the purposes of terrorism and subversion of the democratic order; in articles 285 and 286 regarding devastation,

multiple murder, looting, and civil war; in article 306 governing armed organisations; in article 280 which lays down the penalties for attacks designed for the purposes of terrorism and subversion; in article 289-bis relating to the abduction of persons for terrorist purposes or to subvert democratic order. Italy has a number of instruments for preventing terrorism that have been in operation since the Seventies, under legislation to protect law and order and to combat the subversion of the democratic system, which are still applicable and effective. Pursuant to Decree Law 374/2001, such provisions are now applicable also to crimes that are committed for the purposes of international terrorism. In particular, mention should be made of the following measures: the possibility of conducting police searches to discover weapons and explosives, without requiring the intervention or authority of the Courts (Section 4 of Law 152/1975); the seizure and confiscation of buildings in which weapons have been discovered (Section 5 of Law 533/1977); the detention of persons refusing to provide personal particulars or who are without identity documents (Section 11 of Law 191/1978); the statutory requirement to notify the authorities of assignments of property or the use and enjoyment of a building (Section 12 of that same Act).

In addition to this, the Italian legal system makes provision pursuant to Section 1 of law 15/1980 for aggravating circumstances, so that it is possible to proceed not only in respect of specified crimes related to this field, but also by charging suspects of ordinary crimes with the aggravating circumstances of having acted with the intention to commit acts of terrorism or the subversion of the democratic order. Many Italian terrorists, however, were or are on parole despite having been meted final judgements and having been convicted at the end of the due process of law. This is justified by the fact that another important criminal law policy was adopted by Italy during the years of terrorism; i.e. substantial reductions of penalties were made available to criminals who dissociated themselves from terrorist organisations and who turned State evidence by cooperating with the judicial enquiries. Such collaboration, and what in Italy is known as "repentance", have made a fundamental contribution to combating domestic terrorism.

The effectiveness of these measures has been demonstrated by the positive outcome of the judicial enquiries conducted during the twenty years of terrorism that Italy experienced, and also by the enquiries into international terrorist organisations that have attacked targets in Italy belonging to foreign states. One example is the attack on the US Embassy in Italy by the terrorist organisation named "Japanese Red Army". The trial, which ended with the conviction and sentencing of numerous members of that organisation, is an exemplary case of Italy's effective legislation in suppressing international terrorist acts. Concrete examples of convictions obtained and enforced against "endogenous" terrorism are those against the "Red Brigades", whose members and associates have all been convicted in the trials that have been held in relation to the assassination of former Prime Minister Aldo Moro, and the massacre of his bodyguards. One should not be deceived by the fact that some of the convicted criminals are on parole, because this is due to the special prison regime granted to those who have actively cooperated in the investigations. It is this which has made possible to put an end to Italian terrorism once and for all. Other examples are the trial of the armed gang known as "Prima Linea", and the terrorist organisations which have assassinated a number of leading Italian figures (Ruffilli, Conti, Tarantelli).

2(f): ***What procedures and mechanisms are in place to assist other states? Please give any available details of how these have been used in practice.***

Italy is already a party to numerous Conventions on this subject matter. Here are a few, indicated in terms of the international organization or the depository state.

UNITED NATIONS

- International Convention Against the Taking of Hostages, 17.12.1979, enacted in Italy by Law No. 718 of 26.1.1985.
- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, 14.12.1973, enacted in Italy by Law No. 483 of 8.7.1977.

EUROPEAN UNION

- Agreement Concerning the Application of the European Convention on the Suppression of Terrorism Among the Member States of the European Communities. Ratified by Law No. 720 of 26 November 1985, it is not yet internationally in force.
- Treaty on European Union, Maastricht 7.2.1992, enacted in Italy by Law No. 454 of 3.11.1992, in which articles 29 (K.1) and 31 (K.3) provide for both police and judicial cooperation.

- European Community Regulation 467/2001 and subsequent amendments, issued in implementation of Security Council Resolutions 1267 (1999) and 1333 (2000) prohibiting an export of goods and services to Afghanistan. The penalties provided by this Regulation which the Commission requests from the Member States, became effective in Italy under Decree Law No.353 of 28 September 2001.

COUNCIL OF EUROPE

- European Convention on Extradition, 13.12.1957 and the associated additional Protocols enacted in Italy by Law No. 300 of 31.1.1963.
- European Convention on Mutual Assistance in Criminal Matters, 13.12.1957 enacted in Italy by Law No. 215 of 23.2. 1961.
- Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, of 8.11.1990, enacted in Italy by Law No. 328 of 9.8.1993 (article 76 of the Convention indicates the crimes (including terrorism) for which assets may be seized.
- European Convention on the Suppression of Terrorism, 27.1.1977 enacted in Italy by Law No. 719 of 26.11.1985.

ICAO

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, 14.9.1963, enacted in Italy by law No.468 of 11.6.1967.
- The Montreal Protocol for the Suppression of Unlawful Acts of Violence At Airports Serving International Civil Aviation, Supplementary to the Convention of 23.9.1971 for the suppression of unlawful acts against the safety of civil aviation of 24.2.1988, enacted in Italy under Law No.394 of 30.11.1989.
- The Convention on the Marking of Plastic Explosives for the Purpose of Detection of 1.3.1991. The law was enacted under Law 407 of 20.12.2000 but has not yet been implemented in Italy because the internal domestic measures provided by Section 4 of that Act have not yet been issued implementing article IV of the Convention.

IMO

- The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 10.3.1988 Enacted in Italy by Law No.422 of 28.12.1989.
- The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf of 10.3.1988, enacted in Italy by Law No.422/1989.

IAEA

- The Convention on the Physical Protection of Nuclear Material, Adopted in Vienna on 3 March 1980, and enacted in Italy by Law No.704 on 7 August 1982.

USA

- The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23.9.1971, enacted in Italy by Law No.906 of 22.10.1973.
- The International Convention for the Suppression of Unlawful Seizure of Aircraft of 16.12.1970, enacted in Italy by Law 906/1973.

2(g): ***How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?***

Control of air, maritime and land borders falls under the responsibility of the specialized police forces. This activity is constantly backed up by international intelligence, through the aforementioned channels and the contribution of specialized counter-terrorism units. Particularly important here is the application of current Schengen legislation and the use of national provisions regarding cross-border violations. Any suspicious individuals can have their identities checked on Italian territory by any police official, even in the streets, by using the terminals installed on police cars which are linked by computer directly to the integrated police data bank. This system (SDI - Investigation System) makes it possible to ascertain immediately whether a given person is being sought by the police, or has a criminal record, or is under observation, or has been seen in the company of anyone connected with subversion or terrorism. Effective controls can also be carried out on documents, motorcars, weapons and banknotes.

From the point of view of the investigations, particular attention is paid to checking whether identity documents and documents authorising residence within the Italian territory have been forged, and action has been

undertaken to dismantle the illegal supply channels. Special attention is also paid to the risk of forging entry and stay permits, both by including specific features in these documents to make it more difficult to reproduce them, and by creating the criminal offence of forging entry and stay documents.

UNSCR 1373 Operative Paragraph 3

3(a): ***What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph? (actions or movements of terrorist or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communication technologies by terrorist groups; threat posed by the possession of weapons of mass destruction by terrorist groups)***

In addition to the use of the international channels mentioned above, bilateral meetings are often held to exchange experiences and operational know-how as well as information on specific investigation activities.

In the light of the new threat, it has become increasingly necessary to set up a streamlined, rapid and effective cooperation system, involving all the authorities responsible in different countries for the prevention and suppression of terrorism. Italy has therefore joined the special Task Force, set up by Europol, which covers the four areas of collecting and disseminating information/intelligence, analysing it in operational terms, carrying out operations, and conducting strategic analyses. This Task Force, which is still in its initial phase, will essentially deal with the 11 September attacks, but will gradually extend its powers and responsibilities to cover terrorism in general.

Within the G8 Countries, the Ministers have adopted an Action Plan to combat terrorism, which has been drawn up jointly by the Working Groups against organised crime (the "Lyon Group") and counter-terrorism (the "Rome Group"). The plan lays down in detail numerous initiatives to step up the exchange of information and cooperation between the Courts with regard to combating terrorism in a number of areas including: the connections between drug trafficking and terrorism and between the illegal traffic in weapons and terrorism; high-tech terrorist threats and non-conventional terrorist threats (CBRN, chemical, biological, radiological and nuclear); the safety of air transport. Where necessary, special workshops have been held to debate the issues (as in the case of non-conventional threats, the counterfeiting of travel documents and the linkage between the traffic in persons and terrorism) and/or the appointment of specific contact points (for airline security and the trafficking in weapons).

It should also be recalled that Italy has organised in 2001 two Expert Seminars on issues related to combating terrorism: one on illegal immigration and trafficking in human beings, and one on the technological capabilities of terrorist organisations. With regard to the initiatives undertaken to deal with attacks by non-conventional weapons, Italy has not been the target of terrorist attacks of this kind, as confirmed by the negative results of laboratory tests on numerous envelopes and parcels containing suspect substances delivered to various parts of the Italian territory.

The General Command of the "Carabinieri", jointly with the territorial Commands of the Fire-fighting Service, have ascertained the efficiency and operational functioning of the equipment to monitor radioactive fallout activated in a selected number of "Carabinieri" barracks. Furthermore, specific instructions have been issued regarding the security procedures to be adopted in the event of receiving or discovering letters or parcels containing traces of chemical or bacteriological substances. At the same time, a process has been initiated to acquire new materials for personal protection against CRBN attacks.

The Office of the Prime Minister has drawn up a general coordinated plan to deal with CRBN attacks, and plans are currently being drafted by each Government Department on the basis of it. The plan intends to ensure the effective protection and defence both of the civilian population and of institutions against any terrorist attacks using chemical or biological agents, in specific areas deemed to be sensitive. It provides guidance on the measures to be adopted and the procedures to be implemented in order to combat this type of threat, through the tightest integration of the national structures for prevention, protection and assistance, particularly in relation to protecting the persons involved in dealing with them.

3(b): ***What steps have been taken to cooperate in the areas indicated in this sub-paragraph? (i.e. to prevent the commission of terrorist acts).***

As already indicated in sub-paragraph (b), Italy is a party to the "Police Working Group" on Terrorism, to which seventeen countries belong (the fifteen member States of the European Union plus Switzerland and Norway) and which makes it possible to immediately circulate information between the specialised counter-terrorism organisations, also for preventive purposes. It should be further remembered that, as the same sub-paragraph (b) indicated, in addition to its active participation in Interpol, Italy is involved in the Europol cooperation channel between member States of the European Union. Furthermore, EU judicial cooperation will be given a fresh impetus through the institution of Eurojust.

3(c): ***What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph? (i.e. to cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts).***

Italy is party to numerous international multilateral Conventions (described above in the reply to paragraph 2 (f)), and also to the following bilateral Agreements:
- Cooperation Agreement with the Czech Republic to Combat Terrorism, Organised Crime and the Illegal Trafficking of Drugs and Psychotropic Substances, signed in Prague on 22/03/1999.
- Cooperation Agreement with Hungary to Combat Terrorism, Organised Crime and the Illegal Trafficking of Drugs and Psychotropic Substances, signed on 13/05/1997.
- Memorandum of Understanding with Saudi Arabia to Combat Terrorism, the Illegal Trafficking of Drugs and Psychotropic Substances and Other Forms of Organised Crime, signed on 13/05/1997.
- Agreement with Argentina on Cooperation to Combat Terrorism, the Illegal International Trafficking of Drugs and Organised Crime, signed on 06/10/1992.
- Agreement with Austria on Cooperation to Combat International Terrorism, International Organised Crime and the Illegal Trafficking of Drugs, signed on 12/11/1986.
- Agreement with Chile on Cooperation to Combat Terrorism, Organised Crime and the Trafficking of Drugs, signed on 16/10/1992.
- Agreement with Cyprus on Cooperation to Combat Terrorism, Organised Crime and the Trafficking of Drugs, signed on 15/03/1991.
- Additional Protocol to the Agreement with Cyprus on Cooperation to Combat Terrorism, Organised Crime and the Illegal Trafficking of Drugs, signed on 05/05/1991.
- Memorandum of Understanding with Egypt to Combat Terrorism, the Illegal Trafficking of Drugs and Other Forms of Organised Crime, signed on 07/12/1988.
- Agreement with France to Institute a Committee to Cooperate in Combating Terrorism, Organised Crime and Drug Trafficking signed on 13/10/1986.
- Joint Decision with the United Kingdom to Institute a Working Group to Cooperate Against Terrorism, signed on 17/04/1985.
- Agreement with the United Kingdom on Cooperation to Combat Terrorism, Organised Crime and the Trafficking of Drugs, signed on 11/01/1989.
- Agreement with Greece on Cooperation to Combat Terrorism, Organised Crime and the Trafficking of Drugs, signed on 23/09/1986.
- Agreement with India on Cooperation to Combat Terrorism, Organised Crime and the Trafficking of Drugs and Psychotropic Substances, signed on 06/01/1998.
- Agreement with Israel on Cooperation to Combat Terrorism, the Trafficking of Drugs and other Form of Serious Crime signed on 04/12/1986.
- Working Agreement with Israel to Cooperate to Combat Terrorism, Organised Crime and the Trafficking of Drugs, signed on 13/09/1994.
- Exchange of Notes with Malta, Constituting an Agreement Amending Article 1 of the Agreement on Cooperation to Combat Terrorism, Organised Crime and the Trafficking of Drugs of 28/02/1991, signed on 03/09/1996.

- Agreement with Morocco on Cooperation to Combat Terrorism, Organised Crime and the Trafficking of Drugs signed on 16/01/1987.
- Additional Protocol to the Agreement with Morocco of 16.01.1987 on Cooperation to Combat Terrorism, Organised Crime and the Trafficking of Drugs, signed on 16/12/1996.
- Agreement with Spain on Cooperation to Combat Terrorism, and Organised Crime signed on 12/05/1987.
- Agreement with Turkey on Cooperation to Combat Terrorism, Organised Crime and the Laundering of the Proceeds of Crime, the Illegal Trafficking of Drugs, Psychotropic Substances and Human Beings, signed on 22/09/1998.
- Agreement with the USA on Cooperation to Combat Terrorism, signed on 24/06/1986.

The points raised in sub-paragraphs (a), (b) and (c) referred to above, relate as a whole to international cooperation between the Intelligence Services. This cooperation, which has already developed considerably and fruitfully, has recently been enhanced both bilaterally and in the fora to which Italian Intelligence Services belong, together with the other western Intelligence Services, and also through the cooperation channels that exist with a number of countries that have specific experience with terrorism.

In more general terms, the Italian Intelligence Services are engaged in making the most of international cooperation. This is being carried out so as to take account of the main trends emerging in the field of international terrorism, and therefore particularly in the organisational complexity of radical networks and the linkages between different types of activities and different areas of the world, as well as the emergence of new threats relating to non-conventional materials, or attacks on sensitive sites. The same attention is also being paid, both in the gathering of intelligence and in exchanges with allied services, to the possible interaction between terrorism and organised crime, and with the increase in illegal transnational trafficking.

The need to deal with the terrorist threat in the long term and in order to optimize prevention is also being addressed by the Italian Government as far as intelligence is concerned, through a plan to reform the whole intelligence sector, which is currently being drafted, to endow inter alia the Intelligence Services with more effective operational instruments.

3(d): ***What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?***

Italy has already ratified ten of the twelve United Nations Conventions against terrorism. As far as the "International Convention for the Suppression of Terrorist Bombings" is concerned, the Government has already approved the Bill for its ratification. With regard to the "International Convention for the Suppression of the Financing of Terrorism", a special Working Group has just been set up to expedite the ratification procedure. A number of even more stringent rules are expected to be introduced in the ratification Law, not only to guarantee the reception of the international rules into domestic law, but also to introduce adjustments aimed at making international cooperation in combating the international financing of terrorism even more effective.

3(e): ***Provide any relevant information on the implementation of the convention, protocols and resolution referred to in this sub-paragraph.***

Italy is a signatory to all the indicated Conventions except the Conventions for the Suppression of Terrorist Bombing and on the Financing of Terrorism, which are currently going through the process of ratification. Italy fully applies the international Instruments to which it is a party, pursuant to UNSCR 1269(1999) and 1368(2001).

3(f): ***What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.***

As indicated in sub-paragraph 2(c) the right to political asylum is governed in Italy by the 1951 Geneva Convention, which has been ratified and incorporated into Italian law, and by other measures that have been issued over the years, especially by Section 1 of Law 39/1990 and Law 286/1998 on immigration. Section 1(4)(d) prohibits the entry into Italian territory of any foreigners intending to apply for political asylum when the border

police have effectively ascertained that the applicant has been convicted in Italy of one of the crimes provided by article 380(1) and (2) of the Code of Criminal Procedure, or constitutes a threat to national security, or belongs to a mafia type organisation, or an organisation involved in drug trafficking or terrorist organisations.

3(g): ***What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.***

Political asylum is granted taking account of the rules laid down by the Council of Europe to guarantee respect for human rights, while not providing coverage for international terrorist networks. Articles 10(4) and 26(2) of the Italian Constitution provide that no-one may be extradited for crimes of a political nature. These rules refer to the ban on extraditing anyone who has acted in opposition to illiberal regimes and is not accused of crimes punishable by the Italian Criminal Code. Notwithstanding this, the Italian Courts retain the obligation to pass judgement even in such cases.

United Nations S/2002/9

Security Council

Distr.: General
2 January 2002

Original: English

Letter dated 2 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Latvia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-22159 (E) 010402

Annex

Note verbale dated 28 December 2001 from the Permanent Mission of Latvia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Latvia presents its compliments to the Secretary-General of the United Nations and has the honour to transmit hereby the report of the Republic of Latvia on the implementation of United Nations Security Council resolution 1373 (2001) in the Republic of Latvia in accordance with its paragraph 6 (see enclosure).

The Permanent Mission of Latvia avails itself of the opportunity to renew to the Secretary-General of the United Nations the assurance of its highest consideration.

Enclosure

Report of the Republic of Latvia on combating international terrorism pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

Immediately after the terrorist attacks on the 11th of September the State President, the Prime Minister and other highest officials of Latvia came out with clear statements unconditionally condemning the terrorist attacks as attacks on democracy and its values throughout the world. Moreover, they pledged full assistance from Latvian to the efforts of international anti-terrorism coalition to combat terrorism in any of its expression.

Latvia is totaly committed to cooperate with international organizations and especially the United Nations, the Counter Terrorism Committee and the member states of the Nations in fighting any form of terrorism.

Consequently, in October 2001 the Prime Minister of Latvia established a governmental working group, which set out general principles and objectives on fighting terrorism. The working group elaborated the respective action plan. Subsequently, the Cabinet of Ministers on October 16th adopted "The Action Plan of the Government of Latvia for Combating Terrorism" designating a far-reaching package of legislative, executive and regulatory measures in the sphere of national and international co-operation.

The Action Plan foresees the enhancement of national and international co-operation and strengthening of legislative and administrative capacity in the following areas of the state jurisdiction:

- foreign policy – rigorous examination and control of visa issuing; restriction of diplomatic contacts with states supporting terrorism; conclusion of bilateral agreements on protection of classified information; implementation of the UNSCR 1267, 1333 and 1373 into domestic legislation; the ratification/accession to international conventions on prohibiting and combating terrorism and terrorist activities, etc.;

- strengthening the cooperation among the state security establishments and their collaboration with similar establishments in other antiterrorism coalition states; improving the circulation mechanism of relevant information among the abovementioned institutions, etc.;

- enhancement of domestic legislation – the adoption of relevant amendments to the law "On Prevention of the Laundering of the Proceeds from Crime", "Criminal law", "The Code of Criminal Procedure", "Credit Institution Law", "Law on State Security Establishments", "Customs Law", etc.;

- the control of immigration process – strengthening of immigration control, improvement of the immigration data base, heightening of the border control procedure, in particular as to regard to persons immigrating from the countries that support terrorism, etc.;

- tightening the export, import and transit control of strategic goods;

- strengthening the administrative capacity of state institutions, including deepening of bilateral cooperation in combating terrorism: consultations among officials, experts; training for officers and relevant units, etc.;

- strengthening of air travel security on aircraft and in airport through such measures as thorough control of hand luggage and all cargos, etc;

- providing society with respective information and insurance of its readiness to extreme situations such as terrorist acts, etc.

Operative Paragraph 1

1. Sub-paragraph (a) – What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

Immediately after the 11th of September the Commission of the Market of Finances and Capital, the institution in charge of licensing and supervising the credit institutions in Latvia, and the Control Service (Latvia's Financial Intelligence Unit – FIU), a specially established State authority which exercises control over unusual and suspicious financial transactions, reposing on national legislation (The Section IV of the Law "On Prevention of the Laundering of the Proceeds from Crime" authorizes the credit and financial institutions to refrain from executing unusual or suspicious financial transactions, i.e., practically to freeze financial resources or other property) addressed the financial institutions of Latvia requesting them to refrain from financial activities or financial transactions with any individual, legal entity or organization considered to be associated with terrorism or terrorist acts.

In meeting the requirements of the UNSCR 1267, 1333 and 1373 the Control Service and the Commission of the Market of Finances and Capital provided the financial institutions with all available relevant information and lists of individuals and legal entities associated with terrorism, particularly, with Osama bin Laden and al-Qaeda, issued by the UN Committee dealing with Afghanistan sanctions regime, US Office of Foreign Assets Control and other FIUs.

Up to now, no financial transactions or financial assets by persons or entities from the abovementioned terrorist lists have been registered in Latvian credit establishments.

Furthermore, the Defense and Internal Affairs Committee of the Parliament established a working group (including representatives of the Office of the Prosecutor-General, the Control Service, the Security Police, the Ministry of Finances, the Ministry of Foreign Affairs and academic circles) to discuss questions of combating financing of terrorism in regard to necessary amendments to the Latvian legislation. Thus, the amendments to the Law "On Prevention of the Laundering of the Proceeds from Crime" were elaborated and passed to the Parliament for further debate.

In due course of implementation of the Action plan of the Government of Latvia on combating terrorism and in accordance with the Resolution Latvia has initiated the national legislative procedure of ratification of the International Convention for the Suppression of the Financing of Terrorism of December 9,1999. The Minister of Interior Affairs on 18 th of December in New York signed the Convention.

2. Sub-paragraph (b) – What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

Section 88 of the Criminal law of Latvia foresees the criminal liability for committing terrorist acts in the Republic of Latvia in the following way:

"(1) For a person who commits causing an explosion or fire, or other intentional acts directed towards destruction of human beings or infliction of bodily injury to or other harm to the health of human beings, or commits destruction or damaging of enterprises, structures, oil or gas lines, power lines, transport routes and means of transport, telecommunications networks or other property with the purpose of harming the Republic of Latvia or its inhabitants, or commits, for the same purpose, mass poisoning, or spreading of epidemics and epizootic diseases,

the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than eight and not exceeding twenty years, with confiscation of property.

(2) For a person who, employing explosion, fire or other generally dangerous means, intentionally commits violent acts, dangerous to life or health, against persons, or destruction or damaging of the property of another person, or commits the threatening of such acts, presented as a term of cessation of the violent acts, where there is reason to believe that these threats may be carried out, with purpose of inducing the State, its institutions or international organizations to take any action or refrain therefrom,

the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than fifteen and not exceeding twenty years and confiscation of property".

As far as the criminalization of willful provision or collection of funds with the intention that these financial resources should be used in order to carry out terrorist acts the Criminal Law foresees that such actions shall be criminalized as participation in the execution of acts stated in the Section 88 of the Law and participators shall be brought to justice.

To fulfill the obligations of the Resolution and by signing the Convention for the Suppression of the Financing of Terrorism state institutions under the guidance of Ministry of Justice has launched the elaboration of amendments to the Criminal Law in three particular areas:

- stating as a separate criminal offence the financing of terrorist groups and terrorist acts in general;
- stating the criminal liability for founding the terrorist organization and enrolment in terrorist organizations;
- reviewing in general the concept of terrorism in national legislation in view of the United Nations and European Union's efforts of constituting the extensive concept of terrorism definition.

The amendments to the Criminal Law shall be passed to the Government of Latvia till 1 March 2002 for adoption.

3. Sub-paragraph (c) – What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken?

On 6 December 2001 the Parliament of Latvia – Saeima accepted in the first reading the draft amendments to the Law "On Prevention of the Laundering of the Proceeds from Crime" which shall establish the mechanism of freezing financial assets of individuals and legal entities associated with terrorism and shall criminalize the financing of terrorist acts and organizations. The aforementioned and consecutive amendments in national legislation shall authorize the Control Service to issue an order to freeze immediately financial assets mentioned above.

The draft amendments to the aforementioned Law provide for the following:

- terrorism is recognized as a predicate criminal offence;
- financial resources and other property are classified as proceeds derived from crime if they are directly or indirectly controlled or owned by a person (natural or legal) included in the terrorist watch list based on suspicion of carrying out acts of terrorism or participation in such acts;
- the Latvian FIU (the Control Service) is the authority that disseminates the information on the persons included in the list to credit and financial institutions;
- the Latvian FIU (Control Service) is authorized to demand credit and financial institutions to suspend debit operations with financial resources in the accounts of such persons or suspend movement of other property of such persons for the period of time up to six months;

- the authority of the Latvian FIU (Control Service) with regard to co-operation has been extended allowing it to co-operate with foreign or international anti-terrorism agencies concerning the issues of control over movement of financial resources or other property linked to terrorism.

Alongside the measures referred to above, it has to be highlighted that the draft amendments to the Regulations of the Cabinet of Ministers of 20 March 2001 No. 127 "On the List of Indicators Pertaining to Unusual Transactions and the Reporting Procedure" has been elaborated by the Cabinet of Ministers, which shall supplement the general mandatory requirement to report suspicious financial transactions with a specific, terrorist-related mandatory requirement to report all transactions involving persons and entities on the terrorist watch list, compiled by the Latvian FIU.

The mandatory reporting described above is to be introduced following the entering into force of the amendments to the Law "On Prevention of the Laundering of the Proceeds from Crime". This will keep the FIU informed about the transactions performed by terrorists and their accomplices and allow the FIU to freeze the movement of such funds.

In contrast to the aforementioned Regulations of the Cabinet of Ministers No. 437, which deals solely with sanctions imposed on the Afghan Islam Emirates (Taliban) the coming amendments to the Law "On Prevention of the Laundering of the Proceeds from Crime" as well as the amendments to the Regulations No. 127 shall target all terrorists and their accomplices irrespective of their country of origin.

The precise scope of states and their competent state authorities and international organizations whose lists shall be the authorative source and base to freeze the relevant financial assets shall be discussed in the executive and legislative branches in the process of acception of the draft amendments to the Law "On Prevention of the Laundering of the Proceeds from Crime".

As far as the practical side is concerned, it would be worth mentioning that since 11 September 2001 Latvian authorities have taken concrete steps to implement the said Regulations. A lot of efforts have been devoted to tracing of transactions performed by terrorists or their accomplices. As a result, the relevant information has been forwarded to the US FIU – FinCen.

Thus, while legislative amendments are in the process, the Financial and Capital Market Commission, on 2 October 2001, sent a letter to all participants of the financial and capital market, requesting to refrain from any transactions with persons and organizations included in the list of suspects for involvement in the perpetration of the terrorist acts in the USA. The list was received from the US Embassy in Latvia. The participants of the financial and capital market were also asked to refrain from any transactions with any persons or organization if the market participants suspect that these persons or organizations might be connected with perpetration of terrorist acts and to inform FIU about such transactions immediately.

4. Sub-paragraph (d) – What measures exist to prohibit the activities listed in this sub-paragraph?

According to the national legislation in force and the consecutive draft amendments the State has a jurisdiction over any person and legal entity operating within the territory of Latvia perpetrating any criminal offence.

Operative Paragraph 2

1. Sub-paragraph (a) – What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit

(i) recruitment to terrorist groups and

(ii) the supply of weapons to terrorists?

What other measures help prevent such activities?

(i) The founding and functioning of the social organizations and associations in Latvia is regulated by the law "On Social Organizations and Associations". The Law states that an organization shall not be registered in case its statutes or other documents on their activities provide information that indicates that the founding and functioning of the respective organization or association is not in conformity with the values of the Constitution of Latvia, national legislation and international agreements binding for the Republic of Latvia.

Furthermore, if in the process of the functioning of the social organization or association it contravenes with the aforementioned legislation and international agreements the responsible state institutions shall dismiss such an organization on the grounds of Article 37 of the aforementioned Law (including if the organization as an entity is purposely committing criminal offences).

In addition, it is forbidden by the Law to establish military or armed units in the territory of Latvia. Furthermore, the social organizations and associations are forbidden to arm their members and to organize military training (Article 17 of the Law).

After the terrorist attacks in the United States of America the state security establishments are strengthening the supervision of any suspicious associations or groups of individuals that might be associated with any terrorist or seperatist organizations.

(ii) The flows of arms and ammunition in the territory of the Republic of Latvia is strongly supervised by responsible state institutions such as the Ministry of interior, the State Police, the Control Committee of Strategic Goods and the customs and border control institutions.

The laws concerning the arms and ammunition state clear and strong requirements for possession and using of arms and ammunition in the framework of acquisition of licence, the responsibilities and duties of possessor or user of arms and ammunition. Thus, the mechanism stated above shall prevent providing with firearms any person or groups of persons that could use them for committing any criminal offence and terrorist acts as well.

Furthermore, the Criminal Law of Latvia foresees severe penalties in the field of the infringement of the mechanism of circulation of arms and ammunition.

Thus, the Law states such criminal offences in the abovementioned field:

Section 73. Manufacture, Amassment, Deployment and Distribution of Weapons of Mass Destruction

For a person who commits manufacture, amassment, deployment or distribution of nuclear, chemical, biological, bacteriological, toxic or other weapons of mass destruction the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than three and not exceeding twenty years.

Section 233. Unauthorised Manufacture, Acquisition, Storage and Sale of Weapons, Ammunition and Explosives

(1) For a person who commits unauthorised manufacture, carrying, conveying or sale of a non-firearm weapon the applicable sentence is deprivation of liberty for a term not exceeding two years, or custodial arrest, or community service, or a fine not exceeding forty times the minimum monthly wage.

(2) For a person who commits a violation of provisions regarding selling firearms or ammunition the applicable sentence is deprivation of liberty for a term not exceeding four years, or a fine not exceeding eighty times the minimum monthly wage, with or without deprivation of the right to engage in specific forms of entrepreneurial activity for a term not exceeding five years.

(3) For a person who commits manufacturing, acquiring, storing, carrying, conveying or selling firearms, ammunition, explosive substances or explosive devices, without the relevant licence the applicable sentence is deprivation of liberty for a term not exceeding ten years or custodial arrest, with or without deprivation of the right to engage in specific forms of entrepreneurial activity for a term of not less than two and not exceeding five years.

Section 237. Violation of Provisions and Procedures Regarding Use of Firearms

For a person who commits a violation of provisions or procedures regarding the use of firearms, if commission thereof is by a person authorised to acquire, store or carry firearms and serious consequences are caused by such violation the applicable sentence is deprivation of liberty for a term not exceeding five years, or custodial arrest, or community service, or a fine not exceeding one hundred times the minimum monthly wage".

At the multilateral level, Latvia participates in all established mechanisms to control trade in arms and to prevent any arms, and in particular weapons of mass destruction, being passed on to terrorist groups. Latvia is a State Party to the NPT, CWC and BTWC. It has acceded to the EU's Code of Conduct on Arms Exports.

2. Sub-paragraph (b) – What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

Sharing of intelligence and other information among the state security institutions and with partner services in the Baltic States and other countries of anti-terrorism coalition is an important part of the Government's Action Plan. Latvia has proposed to the EU and NATO member countries and certain other states to conclude agreements on protection of classified information.

In addition, the Ministry of Defence is deepening the bilateral cooperation in training on combating terrorism.

Furthermore, the states security establishments have developed a broad information strategy alongside its work to monitor relevant groups and gather data on potential terrorist and organized crime networks in Latvia and internationally.

3. Sub-paragraph (c) – What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

The immigration of persons in the territory of the Republic of Latvia is controled and supervised by respective state institutions such as the Ministry of Interior, the State Police, the customs and border control institutions.

Thus, a person who arrives in Latvia by crossing the state border at a land border control point, in order to receive asylum and obtain refugee status, shall be immediately brought to the nearest State police station where he/she shall submit an application for obtaining the refugee status. A person who arrives at the Latvian State border

control point in an airport or seaport shall submit an application for obtaining the refugee status before entering Latvia. The application shall be lodged to the State police official at the border control point.

It is a duty of the police official to carry out an interview with the asylum seeker at a State police station. During the interview and the initial examination of the application, an asylum seeker is accommodated at the State police station in the premises provided specifically for these purposes.

If the application is considered to be well founded, the asylum seeker shall be transferred without delay to the nearest accommodation centre for asylum seekers.

The review of the application shall be completed in a period up to three months.

4. Sub-paragraph (d) – What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if states supplied examples of any relevant action taken.

The liability of a person who has committed a criminal offence in the territory of Latvia is determined in accordance with the Criminal Law. The Criminal Law and the Code of Criminal Procedure foresees that any person who has committed any criminal offence in the territory of Latvia shall be brought to justice.

5. Sub-paragraph (e) – What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

In accordance with the Latvian Criminal Law a serious crime is an intentional offence for which the law provides for deprivation of liberty for a term exceeding five years but not exceeding ten years. The most serious crime, as defined by the Latvian Criminal Law, is an intentional offence for which the Law provides deprivation of liberty for a term exceeding ten years, life imprisonment or the death penalty. Thus, according to the national legislation mentioned above in the Sub-paragraph (b) of the Operative Paragraph 1 terrorist acts fall into the cathegory of serious crime or, in some cases, even the most serious crime.

6. Sub-paragraph (f) – What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

Latvia has pledged full assistance to the United Nations and member states of the antiterrorism coalition in combating terrorism. As a member state of a wide range of international legal instruments (conventions and bilateral agreements) Latvia is ready to participate in fighting terrorism in any of its expressions.

7. Sub-paragraph (g) – How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

Aliens and stateless persons may enter the territory of Latvia upon presenting a travel document recognised by Latvia with a valid visa or residence permit. The border control institutions pay special regard to persons entering from terrorism supporting countries.

The embassies of Latvia are carefully examining visa applicants; the "Black List" of the European Union has been checked in every case.

The state security institutions regularly check the operative information from the partner services of foreign countries. Up to now about 30 persons that are mentioned as terrorists or named as persons associated with al-qaeda organization have been checked. There are no stated facts that such persons have entered the territory of Latvia in the period of the last three years.

Furthermore, the border control authorities have been asked to detain 62 persons that have been known to forge identity documents in the past.

Operative Paragraph 3

1. Sub-paragraph (a) – What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

The Paragraph B of the Action Plan of the Government of Latvia envisions the fortifying exchange of relevant information among the state security establishments in Latvia and cooperation with the partner organizations in the Baltic states in the terrorism related issues of the immigration, customs and security policies. Thus, the Security Police, the Constitution Protection Bureau, the Control Service and other institutions of Latvia regularly exchange information with foreign state security establishments and international organizations on potential terrorist attacks and terrorism related issues. In addition, the customs institutions of Latvia after the attacks on the United States of America strengthened the border control of persons and goods, especially in respect to the import and export of strategic goods.

Furthermore, the Action Plan foresees to conclude bilateral agreements on the protection of classified information with more than 20 countries that shall enhance the cooperation among the state security institutions.

As a member state of INTERPOL Latvia is actively engaged in the organization's activities to combat terrorism according to its resolutions by exchanging information with other member states. In addition, the responsible state institutions of preventing money laundering and financing of terrorism are operating closely with the FATF recommendations.

2. Sub-paragraph (b) – What steps have been taken to exchange information and co-operate in the areas indicated in this sub-paragraph?

At present Latvia has concluded bilateral agreements on co-operation in combating organized crime and cooperation in the area of justice and interior matters with Czech Republic, Croatia, Israel, Slovakia, Finland, Ukraine, Hungary, Turkey, Germany and Sweden. The abovementioned agreements include also the cooperation in the area of combating terrorism. Thus, the agreements encompass the obligation of states to cooperate on exchange of information about possible terrorist acts. In addition, on 17 October 2001 the Cabinet of Ministers accepted the Agreement between Latvia and Georgia on Cooperation in Combating Terrorism, Illicit Drug Trafficking and Organized Crime.

3. Sub-paragraph (c) – What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

Since regaining independence, Latvia has frameworked a wide system of bilateral and multilateral agreements that helps state to collaborate with other states in combating terrorism in any forms and the organized crime in general.

In addition to the aforementioned in the sub-paragraph (b) on 17 May 2001 Latvia has ratified the UN Convention against Transnational Organized Crime and yet has started to review the Protocols of the Convention.

Furthermore, Latvia is also a State Party to the New York Framework Convention on Narcotic Drugs; the Vienna Convention on Psychotropal Substances; the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on their Destruction; the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurous or to have Indiscriminate Effects and the Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

In the framework of the Council of Europe, Latvia has acceded to the European Agreement on the Transmission of Applications for Legal Aid; the European Convention on Extradiction and its two additional Protocols; The European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol; the European Convention on the Transfer of Proceedings in Criminal Matters and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

In 2002 the Ministry of Interior of Latvia shall initiate the national legislative process of ratification of the Convention on Cybercrime and the Ministry of Justice respectively – the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

4. Sub-paragraph (d) – What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

Latvia has acceded to/ratified following conventions relating to combating terrorism:

1. The Convention on Offences and Certain Other Acts Committed on Board Aircraft (in force in the territory of the Republic of Latvia since 8 September 1997);

2. The Convention for the Suppression of Unlawful Seizure of Aircraft (in force in the territory of the Republic of Latvia since 22 November 1998);

3. The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and its Protocol (in force in the territory of the Republic of Latvia since 13 May 1997);

4. The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (in force in the territory of the Republic of Latvia since 14 May 1992);

5. The Convention on the Marking of Plastic Explosives for the Purpose of Detection (in force in the territory of the Republic of Latvia since 16 November 1999);

6. The European Convention on the Suppression of Terrorism (in force in the territory of the Republic of Latvia since 21 July 1999).

To fulfil the obligations set out in the Action Plan of the Government of Latvia and the relevant political and legal international instruments Latvia has taken the concrete steps to accede/sign or ratify the following conventions in year 2002:

1. The International Convention Against the Taking Hostages (the respective provisions of the convention already has been incorporated in the Criminal law);

2. The Convention on the Physical Protection of Nuclear Material;

3. The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation;

4. The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf;

5. The International Convention for the Suppression of Terrorist Bombings.

In due course of implementation of UNSCR 1373, Latvia has initiated the national legislative process of ratification of the International Convention for the Suppression of the Financing of Terrorism of December 9, 1999. The aforementioned Convention has been accepted in the Cabinet of Ministers on 11 December 2001 and signed by the Minister of Interior in New York on 18 December 2001.

5. Sub-paragraph (e) – Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

Latvia has implemented all the requirements of the international legal instruments on combating terrorism by the adoption of the relevant laws or regulations of the Cabinet of Ministers or elaboration of amendments to the existing national legislation.

In addition to the aforementioned, on 8 October 2001 the Cabinet of Ministers adopted regulations "On the Implementation of the United Nations Security Council Sanction Regime against the Islamic Emirate of Afghanistan" based on the United Nations Security Council Resolution 1267 of 15 October 1999 and Resolution 1333 of 19 December 2000. Thus, the Control Service provided the financial institutions with lists of individuals and legal entities considered to be associated with terrorism, including persons associated with Osama bin Laden and al-Qaeda organization, provided by the UN Sanctions Committee. At present there are no stated facts about such financial transactions or financial assets in Latvian financial establishments.

6. Sub-paragraph (f) – What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

According to the Law "On Asylum Seekers and Refugees in the Republic of Latvia" the procedure of granting the refugee status in Latvia is based on the grounds of generally accepted international human rights principles. The Law states also the grounds, which preclude the granting of refugee status.

Thus, refugee status shall not be granted to a person in Latvia if the person has committed a crime against peace, a war crime or a crime against humanity, crimes of genocide within the meaning defined in international agreements which have been adopted in order to carry out measures against crimes of this kind; the person has committed a serious non political crime outside Latvia, while travelling to Latvia as an asylum seeker; the person belongs to a terrorist or other criminal organization, or the person is guilty of committing acts which are contrary to the goals and principles of the United Nations.

Furthermore, Latvia has acceded to the UN Convention relating to the Status of Refugees of 28 July 1951 and the Protocol to the Convention of 31 January 1967.

The authority in charge - Refugee Affairs Centre - has developed a close cooperation with related authorities in Sweden and Denmark, as well as respective international institutions, such as, the office of UNHCR. The exchange of information between the Refugee Affairs centre and respective authorities in Estonia and Lithuania, and the EU institutions is a constant subject matter.

Latvia is cooperating closely with its neighboring countries Lithuania, Estonia within the framework of the Baltic States Council of Ministers Migration Committee and immigration institutions of the Russian Federation.

7. Sub-paragraph (g) – What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures, which prevent claims of political motivation being recognised as grounds for refusing requests for the extradiction of alleged terrorists. Please supply examples of any relevant cases.

Section 26 of the Law "On Asylum Seekers and Refugees in the Republic of Latvia" foresees that refugee status shall be withdrawned if it has been obtained under false pretences (in order to obtain refugee status, the person has intentionally provided false information significant to the granting of refugee status), for example, the violation of prescriptions concerning the grounds which preclude the granting of refugee status or the person has been found guilty of an especially serious crime which poses a threat to the society.

Furthermore, in accordance with the European Convention on the Suppression of Terrorism, Latvia as a State Party has stated that for purposes of extradiction none of the criminal offences stated in Article 1 of the abovementioned Convention is regarded as a political offence or as an offence connected with a political offence, or as an offence inspired by political motives.

3.3. States may include in their reports additional relevant information, including information on the issues covered by Paragraph 4 of Resolution 1373 (2001). They may also include general observations on the implementation of the resolution, and outline any problems encountered.

The Latvian policy in combating international terrorism is reposed on the international efforts to fight terrorism in all its forms. The policy is closely connected with other efforts to eliminate international organized crime, drug trafficking and money laundering.

Latvia participates in the Multidisciplinary Group on International Action against Terrorism (GMT) established by the Council of Europe. Furthermore, the state has carefully studied with a view of incorporating relevant provisions in its national legislation the Report of the Secretary General of the Council to improve its policy against terrorism. As a candidate country of the European Union, Latvia is taking measures to introduce the emerging EU acquis in the area of fight against terrorism.

United Nations S/2002/10

Security Council

Distr.: General
2 January 2002

Original: English

Letter dated 2 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Thailand, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-22628 (E) 040402

Annex

Letter dated 26 December 2001 from the Permanent Representative of Thailand to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your note dated 29 October 2001 requesting Member States to report to the Counter-Terrorism Committee on the steps taken to implement resolution 1373 (2001), I have the honour to transmit herewith the implementation report of the Government of Thailand pursuant to the said resolution (see enclosure).

(*Signed*) Chuchai **Kasemsarn**
Ambassador
Permanent Representative

Enclosure

Thailand's implementation report pursuant to paragraph 6 of Security Council resolution 1373 (2001)

1. Actions taken pursuant to Security Council resolution 1373 (2001)

Operative Paragraph 1
Sub-paragraph (a):

- On 21 December 1999, the Thai Cabinet resolved, pursuant to Security Council Resolution 1267 (1999), to instruct all authorities concerned to comply with the Resolution, including the freezing of transfer of funds or financial resources belonging to the Taliban. To achieve this objective, the Bank of Thailand has circulated a note to all commercial banks and financial institutions requesting their cooperation to comply strictly with the said Cabinet resolution.
- On 16 January 2001, the Thai Cabinet resolved, pursuant to Security Council Resolution 1333 (2000), to instruct all authorities concerned to comply with the Resolution, including the freezing of transfer of funds and financial resources belonging to Mr. Usama bin Laden and persons or entities associated with him as identified by the Security Council Committee, including the Al-Qaida network. To achieve this objective, the Bank of Thailand has circulated a note to all commercial banks and financial institutions requesting their cooperation to comply strictly with the said Cabinet resolution.
- The Security Council Committee's report of 4 April 2001 specifies that Thailand is among 46 countries that has reported the implementation of Security Council Resolution 1333 (2000) to the Committee.

Sub-paragraph (b):

- On 2 October 2001, the Thai Cabinet resolved, pursuant to Security Council Resolution 1373 (2001), to instruct all authorities concerned to comply with the Resolution and to assign the Council of State to consider relevant domestic laws and regulations and, if necessary, to propose amendments thereto in order to implement the Resolution in full.
- On 11 December 2001, the Cabinet approved 2 draft amendments to the Penal Code and Money Laundering Act proposed by the Council of State. The two drafts will be submitted to Parliament for approval at the next parliamentary session which is due to start in early February 2002.
- The draft amendment to the Penal Code defines the scope of terrorism and prescribes the act of terrorism as a serious offence under Thai criminal law. The proposed punishment ranges from a fine of 200,000-1,000,000 Baht to death sentence. Any person who threatens to commit such an offence or is an accomplice thereto would receive the same punishment as the perpetrator of the crime of terrorism. Persons engaging in various forms of attempted commission of the crime are subject to a lesser punishment, ranging from a fine of 60,000-300,000 Baht to 3-15 years of imprisonment.

Sub-paragraph (c):

- The existing domestic laws do not provide a legal basis for the authorities concerned, such as the Bank of Thailand or the Anti-Money Laundering Office, to freeze transfer of funds or financial resources of persons or entities suspected of committing or facilitating the commission of terrorist acts. In this regard, the Bank of Thailand has applied administrative measures by circulating a note to all commercial banks and financial institutions requesting their cooperation to comply with the relevant Security Council Resolutions.
- In order to close this legal loophole, the Council of State submitted draft amendments to the Penal Code and to the Money Laundering Act to the Cabinet on 11 December 2001. The thrust of the draft amendment to the Money Laundering Act is to make terrorist acts under the Penal Code as an offence under the Money Laundering law as well. Once the Parliament approves these two draft amendments, the Anti-Money Laundering Office will be empowered to freeze the transfer of funds or financial resources of alleged terrorists and their accomplices.

Sub-paragraph (d):

- The draft amendment to the Penal Code which stipulates the terrorist act as a serious crime with severe punishment would punish not only perpetrators of the crime but also their accomplices, including persons or entities making funds or financial assets available to them.

Operative Paragraph 2

Sub-paragraph (a):

- The draft amendment to the Penal Code stipulates severe punishment on recruitment of members of terrorist groups and supply of weapons to terrorists, either in the form of direct support or facilitation of the commission of terrorist acts.
- Intelligence and security agencies in Thailand have been on high alert since the 11 September incident. Tight measures are in place to inspect and monitor any movement of terrorists. A watch list of persons who have any connection with terrorist groups was prepared to be shared among all agencies concerned so that they can cooperate to prevent suspects from entering the country.

Sub-paragraph (b):

- All intelligence agencies, be it civilian, military or law enforcement, have accorded high priority to information sharing and networking with their foreign counterparts, especially the U.S. agencies. Since 11 September 2001, all Thai intelligence agencies have intensified their cooperation in the investigation and the search for the suspects of the incident by checking their criminal records and the record of their visit to Thailand, as well as interrogating and monitoring their movement.

Sub-paragraph (c) & (d):

- Thailand has adopted a firm policy in condemning terrorism in all its forms and manifestations. In practice, all authorities concerned have done their utmost to ensure that Thailand will not be used as a base for the commission of any terrorist acts against any other country and that terrorists will never find safe haven in Thailand.
- Article 12 (7) of the Immigration Act (1979) stipulates that the competent Thai authority has the right to deny entry to the Kingdom of any person whose behavior is deemed to be harmful to peace and safety of the public or national security, or being under a warrant of arrest issued by a competent authority of a foreign government.
- After 11 September 2001, all security and law enforcement agencies have stepped up measures to detect, monitor and be alert to any movement of persons or a group of persons who are believed to be associated with terrorist organizations, with a view to preventing them from infiltrating into the country or using Thailand as a base for the commission of terrorist attacks within or outside Thailand.

Sub-paragraph (e):

- The draft amendment to the Penal Code which will be submitted to Parliament for approval at its next parliamentary session early next year is intended to criminalize terrorist acts as serious criminal offences with severe punishment. (For details see 1 (b).)

Sub-paragraph (f):

- The Mutual Assistance in Criminal Matters Act (1992) forms a broad basis for cooperation with other countries in criminal matters; i.e., taking testimony and statements of persons; providing documents, records and evidence for prosecution and search and forfeiture of properties. The thrust of the law is based on principles of double criminality and reciprocity which allow Thailand to extend assistance in criminal matters to virtually every country. The law is supplemented by the Treaties of Mutual Assistance in Criminal Matters that Thailand has with 5 countries ; namely, the United States, Canada, the United Kingdom, France and Norway. Thailand is now in the process of concluding such treaty with Poland.

Sub-paragraph (g):

- All provincial authorities in the border areas are instructed to be on high alert to detect, monitor and be watchful for any movement of terrorists, in order to safeguard the country against illegal entry. Cooperation

between civilian, military and law enforcement agencies in border areas has also been strengthened. In addition, the headquarters of the agencies concerned in Bangkok back up the work of their respective offices with relevant information and intelligence received from international networks.

- As for passport issuance, the Ministry of Foreign Affairs does its utmost to ensure that the procedure in this aspect is up to international standards and takes serious steps to prevent and suppress passport counterfeit. The personal record of each passport applicant is verified through the system linked with the central database of the Civil Registration Office. The passport itself is loaded with several advanced security features, such as high quality paper mixed with visible and invisible fibers, secret UV invisible marks, watermarks on each visa page, digitization of the bearer's portrait, lamination of security film to protect the bio-data page, and stitching with fluorescent thread. Efforts have been made to ensure that all immigration check points are equipped with passport sensor devices to verify the authenticity of each paper and to prevent it from any misuse by international criminals.

- Regulations for visa issuance have been improved. There shall be no issuance of visa in a third country for nationals from certain countries in Africa, the Middle East and South Asia, unless approved by the Ministry of Foreign Affairs on a case-by-case basis. A thorough check on general visa applicants has also been heightened at all Thai embassies and consulates. If any visa applicant is suspected of behavior that may cause security concern to the country, his/her application shall be denied.

- In order to address the growing security concerns, the Cabinet has approved the reduction on the number of countries entitled to exemption of visa requirements for a stay up to 30 days from 57 countries to 37 countries and the number of countries entitled to visa-on-arrival for a stay up to 15 days from 96 countries to 17 countries.

Operative Paragraph 3

Sub-paragraph (a):

- All intelligence agencies in Thailand have increased their existing close cooperation with their foreign counterparts. Information/intelligence sharing on terrorist activities and movement are primary on their agenda.

Sub-paragraph (b):

- The Act on Mutual Assistance in Criminal Matters (1992) provides a basis for Thailand to extend assistance in criminal matters to virtually every country, based on the principles of double criminality and reciprocity. (For detail see 2 (f).)

- The Anti-Money Laundering Office of Thailand has become a member of the EGMONT Group since 2000. The membership has enabled the Office to have access to and exchange information with 57 other members.

Sub-paragraph (c):

- Apart from the Act on Mutual Assistance in Criminal Matters (1992), Thailand also has the Extradition Act of 1929. The Act of 1929 provides another channel of judicial cooperation with other countries. Like the Act on Mutual Assistance in Criminal Matters, the main thrust of the act is also based on the two basic principles of double criminality and reciprocity. It is supplemented by 14 bilateral extradition treaties with friendly countries; namely, the United Kingdom, Belgium, Indonesia, the Philippines, the United States, the People's Republic of China, the Republic of Korea, Laos, Bangladesh, Cambodia, Malaysia, Fiji, Canada, and Australia.

Sub-paragraph (d):

- Thailand has been party to 4 conventions and protocol relating to terrorism concluded in the framework of the International Civil Aviation Organization (ICAO) ; namely, the Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963), the Convention for the Suppression of Unlawful Seizure of Aircraft (1970), the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971) and the Protocol for the Suppression of Unlawful Acts of Violence at Airport Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988).

- The Minister of Foreign Affairs of Thailand signed the International Convention for the Suppression of the Financing of Terrorism on 18 December 2001. As for the other 7 conventions, the Cabinet resolved on 11

December 2001 to endorse, in principle, for Thailand to be a party to all the remaining conventions relating to terrorism pending the necessary amendments of domestic laws to enable full compliance with each convention.

Sub-paragraph (e):

- Pursuant to the Thai Constitution, before becoming a party to any international agreement, the authority concerned has to ascertain that domestic laws are adequate for the purpose of the full implementation of such agreement. The conventions and protocol to which Thailand has been party have been implemented as part of the Thai municipal law by the Act on Certain Offences against Air Navigation (1978).
- The Royal Thai Government is committed to the United Nations Charter, in particular Article 25 which stipulates that all Member States of the United Nations agree to accept and carry out the decision of the Security Council in accordance with the present Charter. Therefore, Thailand is legally bound by all Security Council resolutions.

Sub-paragraph (f):

- The Ministry of Interior has tightened its registration procedure at all temporary shelter areas to ensure that displaced persons seeking shelter in Thai territory are not members of any terrorist organization.

Sub-paragraph (g):

- There are appropriate security measures at the temporary shelter areas to prevent displaced persons from escape. If found to be in violation of such measures and arrested outside the temporary shelter areas, they will be deported in accordance with the Immigration Act (1979).
- The proposed amendment to the Penal Code, which has been approved by the Cabinet and is in the process to become law will, in effect, deem a terrorist-related offence a non-political one for the purpose of extradition and if not extradited, the accused shall be prosecuted under Thai law for his/her terrorist–related activities.

2. General observation on actions taken by Thailand with respect to the implementation of Security Council resolution 1373 (2001)

2.1 Thailand is fully committed to Security Council Resolution 1373 (2001). On 2 October 2001, just 4 days after the Resolution was adopted, the Thai Cabinet endorsed the Resolution and instructed all authorities concerned to comply. The Council of State has been assigned to scrutinize the relevant domestic laws and regulations and has proposed necessary amendments thereto to ensure that Thailand has the necessary legal framework to adequately support the full implementation of the Resolution. This clearly reflects the resolve of Thailand to join the international coalition led by the United Nations in the fight against terrorism.

2.2 The two draft amendments to the Penal Code and the Money Laundering Act will increase effectiveness of Thai law in dealing with terrorism. The draft amendment to the Penal Code would make Thai laws cover every step in terrorism, including the preparation, the aiding and abettors, and the actual commission of acts of terrorism. The confine of the offence is not territorially limited to acts committed in Thailand, but also includes the commission of terrorist acts aim at other countries or international organizations.

The proposed amendment to the Money Laundering Act that incorporates as a crime under the Act acts of terrorism under the Penal Code will empower the Office of Anti-Money Laundering to promptly freeze the transfer of funds or financial assets of the alleged terrorists or terrorist organization.

2.3 The signing of the International Convention on the Suppression of the Financing of Terrorism on 18 December 2001 reaffirms Thailand's commitment to Security Council Resolution 1373 (2001), especially with regard to financial measures which are the core of the resolution. It also reflects Thailand's determination to cooperate with the international community in the attempt to eradicate all terrorist groups with global reach by cutting off their financial supply. The amendments to the laws as appears in 2.2 will make it easier for Thailand to ratify this Convention in due course.

United Nations S/2002/11

Security Council

Distr.: General
2 January 2002

Original: English

Letter dated 2 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Germany, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-23045 (E) 050402

Annex

Letter dated 27 December 2001 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I hereby have the honour to transmit a report from Germany to the Counter-Terrorism Committee, prepared in compliance with paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

Germany stands ready to provide the Committee with further information, as required.

I should be grateful if you would have the text of this letter and the enclosed report circulated as a document of the Security Council.

(*Signed*) Dr. Hanns **Schumacher**
Ambassador
Chargé d'affaires a.i.

Enclosure

Report to the Security Council Committee established pursuant to Resolution 1373 (2001) concerning Counter-Terrorism (Counter-Terrorism Committee, CTC)

Germany

General Remarks

The Federal Republic of Germany herewith submits her first report under paragraph 6 UNSC Res. 1373. In so doing, Germany wishes to demonstrate the will and determination with which it has responded to the challenge of international terrorism.

Germany successfully countered the domestic terrorist threat posed by the Red Army Fraction and its successors in the 1980s. However, Germany continued to be a target of international terrorist groups in the 1990s. Therefore Germany was not unprepared when the tragic events of 11 September 2001 occurred, even if combating and preventing international terrorism was only one of several priority issues for German politics before that day. Germany unequivocally welcomed the condemnation of these terrorist attacks by the United Nations Security Council and the General Assembly. Germany particularly welcomed Security Council Resolution 1373, which reiterated the obligation of all United Nations member states to prevent and suppress acts of international terrorism.

This report clearly proves that Germany had a solid foundation for combating and preventing international terrorism, both at national level and in international cooperation, even before that tragic date. As early as 19 September, the Cabinet adopted a first anti-terrorism package intended to improve air-traffic safety. The report also clearly indicates that the German Government has since then considerably improved and strengthened the relevant legal framework and enhanced its implementation. The second anti-terrorism package, described in part later in this report, has been passed by the Bundestag (German Federal Parliament) and the Bundesrat (German Federal Council) and will enter into force at the beginning of 2002. International cooperation has also been considerably widened and deepened. For example, immediately after 11 September, the Federal Criminal Police Office created a special task force of more than 600 police experts to deal with the Al-Qaida network, in close cooperation with the competent authorities of the United States of America, the United Kingdom and other partner states. We are convinced that this challenge of international terrorism cannot be taken on by individual UN member states alone. While it is necessary to have national instruments and experienced personnel available at national level, our report also stresses the utmost necessity of global cooperation in preventing and combating and finally eliminating international terrorism.

Germany has tackled many of the problems posed by this challenge, which has taken on new forms in the last years, in close cooperation with its partners within the European Union. The European Union has developed a road map, which it is in the process of implementing with utmost urgency. That is why some of the measures taken by Germany as a member of the European Union are not outlined in this report but in a separate report presented by the European Union, which has to be read in close conjunction with our national report.

Security Council Resolution 1373 states very clearly that international terrorism is not only a global but also a complex threat to human civilization. It notes with concern the close connection between international terrorism and organized crime. We therefore have to combat international terrorism and transnational crime simultaneously, since they are two interrelated dark sides of globalization. We have to tackle the sources of international terrorism, while not losing sight of the necessity of combating organized crime, trafficking in drugs and corruption. The United Nations have repeatedly called our attention to these causes: lack of proper economic development, unequal distribution of material resources, failing states, the lack of respect for human rights and equal opportunities. If we want a world free from terrorism and crime, we will have to strengthen our efforts to solve these problems as well. Preventing and combating terrorism is one side of the coin, eliminating its sources and root causes the other.

Just as the images of the attacks on the United States of America on 11 September will not fade away and the victims will stay in our memories, our commitment to fight international terrorism within the framework of international and national law will remain.

We are prepared to extend our assistance to countries willing to join us in this fight, to cooperate on a global level with all those who join with us in the aim of eliminating this threat to human civilization.

1. *Decides* that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?

Crucial administrative and legislative steps have already been initiated in order to trace money that is being used or could potentially be used to finance terrorism: the 4th Financial Market Promotion bill (4. Finanzmarktförderungsgesetz) was approved by the Federal Cabinet on 14 November 2001 and has since been submitted for parliamentary debate. The bill is aimed primarily at counteracting non-transparent, global capital flows and financial transactions of criminal origin. To this end it provides, among other things, for amendments to the German Banking Act (Kreditwesengesetz) aimed at bringing bank supervision up to the most advanced international standards, creating the prerequisites for the more effective prevention of money laundering and the financing of terrorism. The main focal points of the bill include:

- Automated retrieval of information on accounts (section 24c of the Banking Act, new): by expanding the existing bank supervisory notification and reporting system by giving banking institutes automated access to accounts and security accounts, the ability of the yet to be established Federal Agency for Financial Services (Bundesanstalt für Finanzdienstleistungen) and of prosecution authorities to identify not just money laundering and illegal banking practices but also transactions used to finance the logistics of terrorism will be enhanced.
- Improved security systems within banks (section 25 a, paragraph 1, No. 4 of the Banking Act, new): by obliging institutions to create "adequate internal security systems for combating money laundering and fraudulent activities detrimental to the institutions themselves", a strict "know your customer" policy will be implemented within the meaning of the supervision principles set forth in the Basel Committee's publication "Customer due diligence for banks" of 4 October 2001. These internal systems within banks must be capable of tracking down payment flows and financial transactions with a criminal background, employing the state-of-the-art technology that is used in retail banking.

Under the legal system of the Federal Republic of Germany, preventing acts of terrorism and their structures is primarily a task for the police force. Hence, the Money Laundering Act (Geldwäschegesetz) is to be adapted in line with the aims of the 4th Financial Market Promotion Act to cope with the new threat. In so doing, the recommendations made by the Financial Action Task Force regarding the identification of money used to finance terrorism are to be implemented, extending the use of the instruments provided for in the Money Laundering Act (the reporting and evaluating of suspicious activities by the enhanced central agency of the Federal Criminal Police Office (Bundeskriminalamt), security systems within banks, identifying dummy transactions) to trace cash flows used for terrorist purposes.

The relevant bill aimed at improving the prevention of money laundering and financing of terrorism (to be the Act on the Prevention of Money Laundering - Geldwäschebekämpfungsgesetz) is to be submitted to parliament as soon as possible.

Under currently valid law, the financing of a terrorist organization is already considered to be an offence preliminary to money laundering under section 261 of the German Criminal Code (Strafgesetzbuch). However, in order to ensure that all forms of financing are covered, the addition of individual items to the catalogue of preliminary offences set forth in section 261, paragraph 1, sentence 2 of the Criminal Code is currently being considered. A relevant bill is also to be submitted to parliament as soon as possible.

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

Under German law, the financing of terrorist activities can constitute a separate criminal offence (section 129a German Criminal Code). The penalties which can be imposed under this provision depend on the circumstances of the case: if the person who does the financing is considered a "backer", for example, the law provides for a term of imprisonment of three to fifteen years for this alone, and for an "ordinary member" of the organization it makes provision for a term of imprisonment of one to ten years. If the person in question is not a member of the organization, the penalty imposable is imprisonment from six months to five years.

In addition, consideration can also be given to imposing punishment for the financing of terrorist activities under the rubric participation in the principal offence. For example, if the perpetrator finances the purchase of weapons used by others to kill people in an attack, imposing punishment for participation in the offence of murder may also be considered. The penalties imposed then depend on the penalties which can be imposed for the actual terrorist offences (in this example, the penalty for murder is life imprisonment).

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

What measures exist to prohibit the activities listed in this sub-paragraph?

1. Legislative measures

1.1 The Federal Republic of Germany will implement UNSCR 1373 (2001) in close coordination with the other EC Member States. The financial sanctions pursuant to sections 1 c) and d) of the Resolution will be the subject of an EC Regulation, which the Council is to adopt. Cf. report of the European Community to the Counter Terrorism Committee for details of the Regulation.

1.2 Beyond the instruments available under the EC Regulation, it is additionally possible in Germany to take preliminary national measures to restrict capital and payment transactions involving the persons or organizations targeted under UNSCR 1373 (2001). These measures are based on sections 2 and 7 of the Foreign Trade and Payments Act (Außenwirtschaftsgesetz – AWG). The provisions of those two sections enable the German Government to restrict legal transactions or activities concerning foreign trade and payments in order to protect against specific risks to the values referred to in section 7, paragraph 1 of the Foreign Trade and Payments Act, viz:

- the security of the Federal Republic of Germany;
- the peaceful co-existence of peoples;
- the external relations of the Federal Republic of Germany.

As soon as the EC Regulation is adopted, it will constitute the principal instrument for the implementation of paragraphs 1c) and 1d) of UNSCR 1373 (2001), so that the purely national instruments provided for in the Foreign Trade and Payments Act only have a limited scope of application. As a matter of principle, application of those instruments could be considered:

- in respect of persons whose inclusion in the scope of application of the EC Regulation, although already applied for, has not yet been decided upon;
- in respect of persons who are not included in this EC Regulation, but who nevertheless pose an evident danger to the values mentioned in section 7, paragraph 1 of the Foreign Trade and Payments Act in Germany.

2. Administrative measures

In the period between 28 September 2001, i.e. the date on which UNSCR 1373 (2001) was adopted, and the date on which the EC Regulation enters into force, the German Government decided to adopt a number of restrictions on capital and payment transactions on the basis of sections 2 and 7 of the Foreign Trade and Payments Act (cf. above). These restrictions concerned persons and organizations whose inclusion on the relevant lists of the Taliban Sanctions Committee of the Security Council and in Annex I of EC Regulation No. 467/2001 (which implements UNSCR 1267/1999 and 1333/2000) was to be expected, but had not yet been decided upon. To prevent the targeted persons from withdrawing their funds, the German Government – based on UNSCR 1373 (2001), because the targeted persons/organizations had not yet been added to the relevant lists of the Taliban Sanctions Committee under UNSCR 1267(1999) and 1333(2000) – introduced provisional national measures to freeze any existing financial resources. In parallel, the preliminary national measures prohibited the provision of any funds to the targeted persons and organizations. These measures were of course lifted after the targeted persons and organizations had been included in Annex I of Regulation (EC) No. 467/2001.

2. *Decides also* that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

(i) Recruiting for terrorist organizations is a separate offence pursuant to section 129a of the German Criminal Code. Depending on the circumstances of the case the law provides for a term of imprisonment from six months to fifteen years. Recruiting for terrorist organizations may also be considered as participation in the actual offences themselves.

(ii) The legal position with respect to supplying terrorist organizations with weapons is in principle the same as that in respect of financing or recruiting for terrorist organizations.

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

Preventing acts of terrorism is a joint task that is incumbent on all the security authorities in Germany. In this field, both the intelligence services, particularly the authorities responsible for the protection of the Constitution, and the Federal and Länder police forces make an important contribution to internal security in the Federal Republic of Germany.

The intelligence services are responsible for keeping a close eye on any endeavours undertaken by persons or organizations that are directed against the constitutional system of the Federal Republic.

Apart from detecting crime, the police are also responsible for averting danger and preventing crime. In accordance with the division of tasks between the Federation and the Federal Länder defined in the Constitution of the Federal Republic of Germany, the Federal Criminal Police Office, as the Federation's own police force, gathers, analyses and coordinates any information that is of significance to more than one Federal Land, or of international or other significance. A central organizational unit set up at the Federal Criminal Police Office ensures that information and reports on threats are exchanged swiftly and without delay at home and abroad. In this context, acts of terrorism committed anywhere in the world and the activities of extremist and terrorist groups are observed closely and evaluated, even if there is no concrete link with the Federal Republic of Germany.

The aim is to process and manage information relevant to threats in a comprehensive, targeted and structured fashion. To this end, a coordinated procedure for the Federal Republic of Germany has been agreed between intelligence services and police authorities that ensures that sensitive information concerning threats is handled professionally and prevents it from being managed by several parties in an uncoordinated manner. This system has proven to be most effective from the national perspective. Against this backdrop, the Federal Minister of the Interior has proposed to his European counterparts that a comparable network of special agencies be set up at European level. In addition, Germany has suggested that a comparable system be implemented within the framework of G8 cooperation.

The exchange of threat-relevant information between EU Member States is a traditional, integral part of their cooperation. It generally takes place within the framework of cooperation within the individual bodies and in particular through the introduction of a special emergency reporting service for terrorist incidents that also involves Europol.

The resources of the Federal Intelligence Service (Bundesnachrichtendienst) must also be borne in mind when early warnings are given to other countries. The Federal Intelligence Service has many well-established international contacts at bilateral and multilateral level that facilitate the exchange of relevant information. Information on threats is passed on immediately.

In the battle against international terrorism, top priority has been given to the prevention of terrorism at supra-European level in a concerted effort made within the G8 Group of Experts on Terrorism. The importance of comprehensive, targeted and structured management and processing of threat-relevant information and facts has been highlighted.

The threat posed by terrorism took on new global dimensions when the suicide attacks were launched in the United States of America on 11 September 2001. The degree of violence, the logistics network of the terrorists and their long-term international strategy mean that legal instruments need to be further evolved. To this end, a large number of statutory amendments have been submitted to parliament in the wake of the terrorist acts in the USA.

A crucial focus of these legislative projects consists of granting the necessary legal powers to security authorities such as the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz), the Military Counterintelligence Service (Militärischer Abschirmdienst), the Federal Intelligence Service, the Federal Criminal Police Office and the Federal Border Police (Bundesgrenzschutz). Another focus of the bill was the creation of the necessary legal conditions for enhancing the exchange of information between the relevant authorities, for preventing terrorists from entering the Federal Republic of Germany and for increasing the range and use of identification measures.

In this context, provision is being made in particular to enhance the competences of the Federal Office for the Protection of the Constitution:

- The duties of the Federal Office for the Protection of the Constitution will in future include the gathering and evaluation of information on endeavours that are directed against the principle of international understanding and the peaceful co-existence of peoples. The intention is to monitor any such endeavours aimed at political

opponents abroad where it is often difficult, if not impossible, to prove either the use of violence or that a person is actually involved in preparing acts of terror in Germany that could possibly affect internal security.

- In order to perform its duties in the field of counter-terrorism, the Federal Office for the Protection of the Constitution is in future to be granted the right to information, as defined by law, from credit institutes, financial service institutions, finance companies, aviation companies and companies providing telecommunications services and teleservices.

- In future, the Federal Office for the Protection of the Constitution will also, in the framework of counter-terrorism measures, be able to use technical means, under certain circumstances defined in a special law, to locate mobile phones that are switched on so that it can establish the number of the phone itself and of the phonecard. However, this measure shall only be permissible if it would otherwise be difficult, if not impossible, to accomplish the goal thereby pursued.

  Just how important certain pieces of information can be is clearly demonstrated by the example of telecommunications and teleservices. Information about a person's pattern of use of telecommunications services and their usage of teleservices can reveal important facts about the environment in which such persons, suspected of being involved in activities that may be relevant for the prevention of terrorism, circulate. Data on connections and usage can help to identify other persons who are involved in terrorist networks and is therefore helpful for preparing additional targeted investigations.

- The ultimate aim of course is to enhance the flow of information between the Federal Agency for the Recognition of Foreign Refugees (Bundesamt für die Anerkennung ausländischer Flüchtlinge) and the aliens authorities on the one hand and the authorities of the Federation and Federal Länder who are responsible for the protection of the Constitution on the other. In future, the Federal Agency for the Recognition of Foreign Refugees and the aliens authorities are to be permitted, under certain circumstances, to transmit at their own initiative any data that has come to their attention about endeavours or activities which the authorities responsible for protecting the constitution are permitted to collect and evaluate information on, if there are concrete grounds to suggest the transmission of such data is necessary to enable the authorities responsible for protecting the Constitution to perform their duties.

In future, the Military Counterintelligence Service, just like the Federal Office for the Protection of the Constitution, is to be permitted to gather and evaluate information on activities that are directed against the principle of international understanding and the peaceful co-existence of peoples, within its area of competence. It will also have the right to request companies providing telecommunications services and teleservices as part of their business to divulge information on data relating to the usage of telecommunications services and teleservices.

The Federal Intelligence Service will be granted the same right as the Federal Office for the Protection of the Constitution to request information, under certain circumstances, from credit institutes, financial service institutions and finance companies about accounts, account-holders and other authorized persons as well as on monetary transactions and investments. The same restrictions and the same obligation to provide information will apply vis-à-vis those concerned. The Federal Intelligence Service, like the Federal Office for the Protection of the Constitution and the Federal Counterintelligence Service, will additionally be permitted, within the framework of its counter-terrorism measures, to use technical instruments to locate mobile phones that are switched on and to determine such mobile phone and phonecard numbers under certain circumstances defined by law.

The Federal Criminal Police Office will be given the original competency to investigate certain serious forms of cybercrime involving in particular acts that may pose a serious threat to the internal or external security of the Federal Republic of Germany or that are aimed against facilities whose breakdown or malfunction could lead to an extended shortage of supply to large sections of the population or have other critical consequences.

The competency of the Federal Criminal Police Office as a central organ is also to be strengthened by enhancing its powers to procure information to supplement any information it already has and to implement evaluation projects. In cases in which it has reason to suspect criminal activity, the Federal Criminal Police Office, in its capacity as a central organ, will be able to gather additional information without having to clarify in each and

every case – as is now the law – whether a Federal or Land police force already has this information. The abolition of this bureaucratic requirement will make it much easier and quicker to obtain any necessary information.

In order to ensure the security authorities also have access to social data, an obligation for social insurance institutions to provide relevant information to the security authorities will be incorporated into law.

In addition to improving the exchange of information, a large number of other measures are to be taken to prevent criminal terrorist activities.

The staff and financial resources available to the Federal and Land security authorities are to be stepped up to adequately compensate them for the added burden associated with the prevention of terrorism.

By tightening up the Act governing Private Associations (Vereinsgesetz), the state's options for taking action against extremist associations of foreigners and foreign organizations have been increased and enhanced. This is true especially when the activities of these associations provide a breeding ground for terrorism and intolerance, and when they make calls for people to support such foreign organizations, collect donations or recruit "fighters".

According to the envisaged revised grounds for banning associations of foreigners and foreign organizations, the security authorities will now have enhanced means of counteracting any such dangers and of combating these organizations.

Further statutory measures will create a legal basis for the conduct of (simple) security clearance checks on persons who are or will be employed at security sensitive positions within airports, with airlines or at facilities that are crucial for life or vital for defence purposes such as energy suppliers or communications facilities. The aim behind this is to ensure that only reliable persons are employed in critical positions in order to prevent terrorism from within and to preclude this resulting in any unforeseeable consequences to the public.

The Prevention of Terrorism Act (Terrorismusbekämpfungsgesetz) inserts a legal basis into the Aliens Act (Ausländergesetz) for measures aimed at establishing the identity of persons who are engaged in or support terrorist activities or are willing to resort to violence, as well as persons coming from certain countries who apply for a visa to reside in Germany for more than 3 months. Endeavours are being made to standardize procedures within Europe regarding the granting of visas for up to 3 months.

At the same time, the scope for data exchange between missions abroad, aliens authorities and security authorities and services regarding national residence titles will be improved.

Checking the authenticity of identification documents and residence titles (including travel documents used as replacement passports and visas granted by way of exception) is another important focus within the framework of intensifying control and supervision measures aimed at preventing acts of terrorism. In order to be able to implement these measures more effectively, the Federal Border Police are to be permitted in future to carry out a simple identity check on persons who do not give any grounds for suspicion. This will cover cases in which although no concrete danger is discernible, it is, for instance, established that persons who do not of themselves look suspicious are found to be conspicuously loitering in the vicinity of protected property (constitutional bodies of the Federal Government, railway stations and railway facilities, airports etc.), are found to be watching them, creating the impression they are spying on them or are gathering other information.

In addition to the above-mentioned legal amendments, a large number of administrative measures have been taken in order to prevent acts of terrorism.

Border controls and surveillance measures conducted by the Federal Border Police along borders have been stepped up. Security plans for property at risk drawn up before the USA launched its military action have been implemented by the Federal and Land security authorities. The protection of American, British, Israeli and Jewish facilities in particular has been stepped up.

Special search measures are being carried out by the Federal Länder on the basis of their right to avert dangers with the aim of tracking down suspects living in Germany and, if possible, nipping any other attacks in the bud.

To this end, available files are being evaluated systematically on the basis of specific criteria which have been developed in the course of the investigations.

Germany is seeking to gain support at EU level to facilitate the expansion of such search measures throughout the whole of Europe.

One focal point of national measures aimed at preventing further attacks relates to safeguarding aviation security at national and international level. In order to do so, security measures have been stepped up for all air traffic at all airports in addition to the checks that are already being implemented. Police presence has been stepped up. This involves, inter alia, stepping up patrols and surveillance of check-in areas, parked aircraft and transit and waiting rooms by the Federal Border Police. All checks carried out on air passengers and baggage have been stepped up. The introduction 100% screening of hold baggage constitutes an important factor of aviation security. This goal has been by and large accomplished at most of Germany's 37 airports and is being pressed ahead with in view of the deadline of 31 December 2002 set out by the EU. State-of-the-art equipment is being used to support the intensified aviation security checks being carried out on passengers and baggage. Without this equipment, air traffic would come to a standstill, assuming the same security requirements had to be met.

Additional security measures have been implemented by US, Israeli, and British airlines and other airlines flying to destinations in the USA and Israel (for instance, 100% manual body searches of passengers prior to departure, 100% screening of cabin baggage accompanied by ongoing, additional manual searches).

Apart from conducting comprehensive security measures on the ground, it has also become necessary to enhance security precautions on board aircraft in order to prevent aircraft from being hijacked, terrorist acts from being committed and hostages from being taken. To this end, the Federal Border Police are deploying air marshals on board German aircraft. This measure is part of a comprehensive concept aimed at enhancing aviation security by taking additional staff-related and technical measures.

Owing to the special responsibilities the job entails, police officers from the Federal Border Police who are particularly suited to the job and have undergone extra training for this purpose are employed. The air marshals are always on board aircraft with the pilot's approval, assisting him in providing security on board the aircraft. Their job is to maintain or restore security and order on board German aircraft. It is in particular their responsibility to prevent or stop actions that might endanger the security and safety of the aircraft or the lives of the people on board. The in-flight authority of the pilot in control of the aircraft (section 29, paragraph 3, sentence 1 of the Civil Aviation Act (Luftverkehrsgesetz) in conjunction with the Tokyo Agreement remains unaffected.

Other technical protective measures to prevent hijackings – such as bullet- and bomb-proof cockpit doors – are currently being investigated.

In addition to national measures, due to the international character of air traffic, great importance is being attached to ensuring that standardized and binding security standards are in place in all of the countries that are involved in international air traffic. These goals are being actively pursued by Germany within the International Civil Aviation Organization (ICAO), the EU and the European Civil Aviation Conference (ECAC) involving 38 member states. It needs to be emphasized in this context that the European Union is hoping to complete the work on an EU Regulation on Aviation Security as soon as possible. This regulation is to enter into force early next year. Its aim is to set uniform and binding aviation security standards in the EU.

Equally, in discharging its railway policing duties, the Federal Border Police have stepped up the security measures in place at major passenger railway stations in close consultation with the police forces of the Federal Länder and Deutsche Bahn AG. In doing so, property of American companies has also been included in the protective measures.

Instructions have also been given to monitor the train routes of US and British military and ammunition transports and to conduct constant protective and surveillance measures during stopovers at freight stations.

First preparatory steps have been taken to facilitate the increased use of immediate searches of persons and hazardous items at railway stations and throughout the Federal rail network (immediate searches on traffic routes/searches on traffic routes), as required in the particular situation.

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

The draft Prevention of Terrorism Act (Terrorismusbekämpfungsgesetz) makes provision for restrictions under aliens law and asylum law, in particular in respect of entry, residence and the legal status of foreigners. These changes were made in light of the events of 11 September 2001.

Nationally uniform residence documents for foreign citizens are to be created which may include, inter alia, biometric characteristics; the legal basis for this is a legal ordinance. Further-reaching measures to ensure correct identification are to be introduced in the procedure for issuing visas and in the asylum procedure, in particular. In this context it is intended that voice recording ensure greater certainty in determining a person's country of origin. In order to enable early identification of individuals who belong to the terrorist milieu, provision is also being made to involve the intelligence services extensively as early as during the procedure to issue visas. Lastly, the Federal Minister of the Interior's bill contains stricter provisions in respect of granting residence permits and extends the grounds for which a person can be expelled from the country.

A further section of the bill contains amendments to a large number of other statutes, such as the Act governing Passports and Identity Cards (Pass-und Personalausweisgesetz) and the Security Screening Act (Sicherheitsüberprüfungsgesetz).

The amendments to the Act governing Passports and Identity Cards make it possible, on the one hand, to include identification characteristics in coded form in a person's passport. In addition, it will in future be possible for biometric characteristics to be included in a person's passport, also in a coded form.

The amendments to the Security Screening Act serve the purpose of extending security screening to cover all persons who work in a "vulnerable area" in security terms. Employers in both the public and private sector will in future be obliged under these amendments to have all individuals screened who are to be entrusted with particularly sensitive duties in an area which is vulnerable in security terms.

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.

Several options exist within the framework of German criminal law. In particular, all persons, including foreign citizens, are subject to German jurisdiction regardless of the place of commission of an offence, if they are apprehended in Germany. This principle also applies to German nationals even if they are not resident in Germany. This means that offences committed by such persons abroad must in principle also be punished pursuant to German law. Certain offences can only be prosecuted in Germany if the offence also incurs criminal liability in the country where it was committed.

As a result of a thorough evaluation of the German legal position, not least in light of recent events, it has become clear that the penal provisions relating to being (merely) a member of a criminal or terrorist organization do not adequately cover all possible situations, namely they do not apply to all cases of activity by foreign citizens abroad which should incur criminal liability. For this reason, the Federal Government has proposed extending the penal provisions applicable to criminal and terrorist organizations in such a way as to better cover this aspect of global activity of criminal and terrorist organizations. The debate on these provisions in parliament gives reason to hope that they will soon enter into force.

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

Firstly, in respect of the individual acts themselves, either the commission of the act in a way characteristic of terrorist acts or the motive of the perpetrators can constitute grounds for the imposition of the most severe penalty available for the acts in question. For example, causing a person's death as a result of a terrorist bombing can incur a penalty of imprisonment for life even if there was no intention to cause the death of another person (section 308 (3) German Criminal Code). If the person was killed with intent, there is indeed no alternative to the imposition of a sentence of life imprisonment where means were used which constituted a danger to the general public or where the perpetrator acted for base motives. In addition, acting for terrorist motives, and in some cases the commission of an offence in a way characteristic of terrorist acts, can, for any offence, be taken into account as an aggravating circumstance justifying the imposition of a more severe penalty.

Furthermore, German criminal law takes account of the gravity of terrorist acts by means of the above-mentioned Criminal Code provision concerning terrorist organizations. According to this provision, ringleaders or backers can, for participation in such an organization alone, be punished by three to fifteen years' imprisonment even if it is not possible to prove that they were involved in a specific terrorist act; this applies analogously to "ordinary" members of such an organization or to persons who give their support to them, as explained above in paragraph 1 (b)

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

The Federal Republic of Germany provides mutual assistance in criminal matters within the framework of a large number of bilateral and multilateral agreements (cf. list in appendix below).

In addition, Germany also provides mutual assistance to the greatest possible extent in the area not governed by treaties, on the basis of the provisions contained in the German Act of 23 December 1982 on International Mutual Legal Assistance in Criminal Matters (Gesetz über die internationale Rechtshilfe in Strafsachen).

The Federal Republic of Germany is conscious of the importance attached to mutual assistance particularly in criminal investigations or criminal proceedings relating to the financing or supporting of terrorist activity, as is demonstrated by the fact that Germany has, *inter alia*, implemented the 12 relevant UN Conventions.

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

Germany was recognized as having high standards as regards the implementation of border controls and the issuing of identity and travel documents, even before Security Council Resolution 1373 was passed. These standards are being further strengthened with the introduction of a series of statutory measures for the Federal

Border Police, in legislation governing aliens and asylum procedures as well as in the Act governing Passports and Identity Cards (Pass-und Personalausweisgesetz).

The Federal Border Police, who are responsible for border security, will thus be given greater powers. These include extending their border-related surveillance powers in spatial terms as well as increasing their powers to carry out identity checks on persons who are obliged to undergo questioning and provide information. So far, the Federal Border Police have only been permitted to use their discretion to stop and to interview people who can provide information needed for the performance of a specific duty. In future, persons who are obliged to stop and provide information can also be asked to prove their identity to the officers, so that any relevant, supplementary information obtained in individual cases can be verified and used appropriately – perhaps at some later date.

German passports and travel documents are internationally recognized as being very hard to forge. In addition to the existing security features, an element preventing documents from being copied was introduced in November 2001 in the form of an individual, optically variable hologram.

Furthermore, within the framework of the Prevention of Terrorism Act (Terrorismusbekämpfungsgesetz), amendments to the Act governing Passports and Identity Cards (Pass-und Personalausweisgesetz) are planned, which will enable other biometric data to be included in a person's passport or identity card in addition to their photograph and signature. Additional biometric data will enhance the computer-aided identification of persons on the basis of identification papers.

It is also intended to make aliens' papers (residence permits, substitute identity cards, temporary suspension of deportation certificates, provisional residence permits) more secure, inter alia by incorporating a machine-readable zone and biometric data.

The enhanced powers to establish persons identities and the improved cooperation with missions abroad, aliens authorities and security authorities described in paragraph 2 (b) above will also help to prevent terrorists from entering the country.

- The fraudulent use of personal identity and travel documents is to be counteracted with improved information access for the authorities.

- To this end, the visa files which hitherto only incorporated information about the visas being applied for will be upgraded into visa-decision files. In future, visa files will contain data on the granting or refusal of visas as well as a photograph of the visa applicant. This will ensure an even more effective control of foreigners entering the country. Police authorities in particular will in future be able to establish immediately when conducting general checks on persons whether a person has entered the country with a valid visa issued by a German mission abroad. Furthermore, German missions abroad will also be able to find out, before issuing a visa, what decisions other missions abroad have taken in the past in relation to a particular visa applicant.

In addition to the statutory initiatives, operational measures have also been taken on the basis of existing regulations.

These include stepping up controls at the borders. All control measures will place special emphasis on establishing the authenticity of identification documents. This also applies to controls at critical locations conducted by the Federal Border Police in border areas, at railway stations, on trains that cross the border and at airports. In order to ensure a targeted procedure is adopted for all of the control and surveillance measures, all offices of the Federal Border Police are provided with criminal and behavioural data on potential terrorists.

Last but not least, instructions have been given to adopt a restrictive procedure along borders as regards issuing identity documents and residence titles (i.e. travel IDs used as replacement passports and visas granted by way of exception).

Germany promotes the following issues at international level:

- The use of the data to be stored in the central Eurodac database for police purposes. In future, the data of asylum seekers over the age of 14 and of foreigners apprehended in crossing external borders illegally and who are not sent back will be stored in this database. The EU "EURODAC" Regulation contains strict rules

according to which data can only be used for the implementation of the Dublin Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities. The aim of the initiative is to facilitate the use of data for security purposes.

- Within the framework of the Convention Implementing the Schengen Agreement, checks are carried out with the security authorities in all Member States on visa applicants who originate from certain countries in order to establish whether there are any reservations regarding their entry into the area. The findings from this consultation procedure are to be used for the benefit of the security authorities and a uniform list is to be drawn up of the States which are obliged to engage in consultations.
- The establishment of joint visa files and of a European central register on citizens of third countries who are residing in the territory of the European Union.
- The introduction of new methods of establishing a person's identity and new identification methods, such as the extremely secure integration of photographs and the incorporation of fingerprints into visas and residence titles.
- The recommendation made by the European Council that each and every Member State keep a central registration register and central register that store the data of all third country nationals residing in the territory of the EU.
- The networking of files by giving Europol, national public prosecutors as well as aliens authorities and asylum authorities online access to the database of the Schengen information system.

3. ***Calls*** **upon all States to:**

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

As regards the distribution of tasks in fighting terrorism between the intelligence services and the police authorities of the Federation and the Länder please see the information provided under section 2 (b).

In performing their police duties, police forces exchange any information they may have if there are grounds to suggest it is necessary to do so. This exchange of information covers all areas mentioned in this item. The intelligence services also transmit relevant information to the competent authorities pursuant to their legal mandate.

State-of-the-art communications equipment is used to pass on information. This in itself ensures the intensive and swift forwarding of information on operative measures.

An intensive and swift exchange of operative information is also guaranteed at international level.

With regard to transfers of sensitive goods, Germany welcomes regular exchanges of information with other countries on the smuggling of weapons, explosives and other sensitive materials to curtail and/or prevent acts of terrorism. According to this philosophy, Germany advocates that the exchange of information be further strengthened by international export control regimes (NSG, MTCR, Australia Group) so as to counteract effectively the danger of proliferation of weapons of mass destruction.

Germany also advocates an intensified dialogue with countries not party to the international export control regimes. The aim of such talks is to promote on equal terms the adoption of a non-proliferation policy in those states.

According to international arrangements, exports of weapons, explosives and other sensitive materials are subject to authorization; in the case of war weapons, the mere handling (i.e. import, export, transit as well as internal transport) is also subject to authorization. The development and production of NBC weapons as well as trade therein and assistance of any kind thereto have been banned. Last year, Germany subjected transfers of sensitive technologies in intangible forms to authorization as well.

In principle, the Federal Republic of Germany participates in international judicial cooperation with all the countries of this world, either on a treaty or non-treaty basis. The Federal Republic has signed all the relevant agreements on the rendering of judicial assistance within the European framework.

The Federal Government has implemented all international conventions on terrorism, incorporating them into national law.

Agreements have been concluded with a large number of Central and Eastern European countries on the prevention of organized crime and terrorism.

Interpol channels are frequently used to exchange information on police and judicial matters. The Federal Criminal Police Office performs this task in its capacity as a central agency. This ensures that information can be forwarded swiftly and in a targeted fashion.

The Federal Criminal Police Office also employs its liaison officers to facilitate the swift and reliable exchange of operative information. To this end, 56 liaison officers of the Federal Criminal Police Office are currently deployed in 44 locations in 40 countries, and the deployment additional officers in line with recent demand is currently under review.

Furthermore, Germany makes intensive use of the possibilities available to police forces of exchanging police information with Europol. Cooperation with a body that has been set up at Europol to analyse the international financial structure of Islamic groups can be given as an example. In addition and in terms of police practice, the "Police Working Group on Terrorism" provides a well-established forum for the exchange of information between 17 Member States (Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom, Germany).

As a direct consequence of the attacks of 11 September 2001, the Customs Criminological Office (Zollkriminalamt) has set up a special unit (named BAO INFO). Its tasks include the coordination of the flow of information in support of counter-terrorism action within Customs and ensuring that relevant information gathered is forwarded to other competent national and international law enforcement authorities. To this end the Customs Criminological Office has also intensified cooperation with foreign Customs Attachés/Customs Liaison Officers in the Federal Republic of Germany. Relevant information will be passed on in full detail. It has also been agreed that regular meetings with the Customs Attachés/Customs Liaison Officers will be held on specified topics.

The intelligence services of the European Union have always worked closely together at different levels. In international terms, there are a large number of well-established contacts at bilateral and multilateral level that ensure there is efficient cooperation and that relevant information is actually exchanged. Due to decisions taken by the Special Council of Justice and Home Affairs Ministers of the European Union on 20 September 2001, two meetings have already been held by the heads of services. The decision was taken at these meetings to intensify cooperation between the services as well as cooperation with Europol and the authorities of the United States. Furthermore, meetings are held on a regular basis between the heads of the relevant departments of the services responsible for the prevention of international terrorism.

Germany helps to prevent terrorism by participating constructively in the EU Task Force of Heads of Anti-Terror Units. A group of experts on the prevention of terrorism has also been set up in Europol, to which Germany seconds experts.

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

Besides becoming party to the relevant international conventions and protocols relating to terrorism (cf. section 3 (d)), Germany has entered into a number of bilateral and multilateral agreements to prevent and suppress terrorist attacks and to render mutual assistance in criminal matters, cf. the list annexed. Some of these agreements do not make explicit mention of terrorist acts. According to German law, however, terrorist acts are always considered to be criminal acts, so that treaties relating to these also allow the prevention and suppression of terrorist attacks and the taking of action against their perpetrators.

Germany has not yet signed the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime but intends to do so shortly.

Germany maintains an extensive network of police liaison officers, which also serves to facilitate international cooperation in the prevention and suppression of terrorist acts, cf. section 3 (a).

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

Germany strongly supports the establishment of an international legal framework to combat all forms of terrorism. Germany has thus signed all twelve UN Conventions and Protocols concerning international terrorism:

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963
2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971
4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973
5. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979
6. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980
7. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988
8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988
9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988
10. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991
11. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997

12. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999

Germany has ratified all but the last two of these conventions. Ratification of these two is underway and being actively promoted by the government. Germany can, however, comply with all the obligations contained in those Conventions on the basis of domestic law, including international cooperation even in the absence of an international convention.

Germany reaffirms its support for the prompt finalization of the draft Comprehensive Convention on International Terrorism and the draft International Convention for the Suppression of Acts of Nuclear Terrorism and encourages the efforts of the UN Secretary-General in this matter.

A number of other multilateral conventions and protocols which serve to enhance international cooperation against terrorism are listed in the appendix.

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

The Federal Republic of Germany has already implemented all of the relevant UN Conventions relating to the suppression of terrorism. Only the Convention for the Suppression of Terrorist Bombings and the Convention for the Suppression of the Financing of Terrorism are still to be ratified. Ratification is being pursued in earnest and, as far as the Convention for the Suppression of Terrorist Bombings is concerned, will be concluded shortly.

Germany can already comply fully with the obligations under the Convention for the Suppression of Terrorist Bombings on the basis of the law as it currently stands. Ratification will merely mean that an international law basis will be created for cooperation with those states which are not able to cooperate on a non-treaty basis.

The same is true as regards the obligations under UN Security Council Resolutions 1269 and 1368. As far as the calls for cooperation contained in paragraph 4 of Resolution 1269 are concerned, reference is also made to the answer given above under no. 2 f).

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognised as grounds for refusing requests for the extradition of alleged terrorists;

What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

The Federal Agency for the Recognition of Foreign Refugees automatically informs the Federal Office for the Protection of the Constitution if it learns of any facts during asylum proceedings that threaten the security of the Federal Government or a Federal Land with the use or preparation of violence. The law is being tightened up in this respect in the Prevention of Terrorism Act which is currently the subject of parliamentary debate.

The Federal Agency for the Recognition of Foreign Refugees can also pass on to the prosecution authorities any data collected in asylum proceedings for the purposes of a criminal prosecution.

Potential refugee status will not preclude extradition, if otherwise justified.

The planned amendments to the Aliens Act will in future limit protection against deportation, with due consideration of the legal principle set forth in Article 1 F of the Convention on the Legal Status of Refugees adopted on 28 July 1951 (Geneva Refugee Convention).

The provisions do not rule out the examination and consideration of obstacles to deportation. However, it does mean that foreigners who are suspected on serious grounds of being involved in serious crime will no longer be granted the legal status under the Geneva Refugee Convention.

In future, it will also be possible to automatically match the fingerprints of asylum seekers with the fingerprints taken by the police at the scene of a crime and stored by the Federal Criminal Police Office. This will ensure that hitherto unknown offenders can be matched to evidence and thus to crimes committed in Germany.

Appendix

Agreements on Cooperation against Terrorism, Organized Crime etc.*

Bilateral:

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Belarus concerning Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Bonn, 4 April 1995

Agreement between the Government of the Federal Republic of Germany and the Government of the Kingdom of Belgium concerning Cooperation between Police Authorities and Customs Administrations in Border Areas, Brussels, 27 March 2000

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Bulgaria concerning Cooperation in the Fight against Organized Crime and Drugs-related Crime, Sofia, 14 September 1992

Agreement between the Ministry of the Interior of the Federal Republic of Germany and the Ministry for Public Security of the People's Republic of China concerning Cooperation in the Fight against Crime, Bejing, 14 November 2000

Agreement between the Government of the Federal Republic of Germany and the Government of the Czech and Slovak Federal Republic concerning Cooperation in the Fight against Organized Crime, Prague, 13 September 1993

Treaty between the Federal Republic of Germany and the Czech Republic concerning Cooperation between Police Authorities and Border Police Authorities in Border Areas, Berlin, 19 September 2000

Agreement between the Government of the Federal Republic of Germany and the Government of the Kingdom of Denmark concerning Police Cooperation in Border Areas, Berlin, 21 February 2001

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Estonia concerning Cooperation in the Fight against Organized Crime and Terrorism and other Significant Offences, Bonn, 7 March 1994

Agreement between the Government of the Federal Republic of Germany and the Government of the French Republic concerning Cooperation between Police and Customs Authorities in Border Areas, Mondorf (Luxembourg), 9 October 1997

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Hungary concerning Cooperation in the Fight against Organized Crime, Bonn, 22 March 1991

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Kazakhstan concerning Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Almaty, 10 April 1995

Agreement between the Government of the Federal Republic of Germany and the Government of the Kyrgyz Republic concerning Cooperation in the Fight against Organized Crime and Terrorism and other Significant Offences, Bishkek, 2 February 1998

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Latvia concerning Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Bonn, 30 March 1995

* Not all agreements listed have yet come into force; in some cases the preparations for the entry into force are still under way.

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Lithuania concerning Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Vilnius, 23 February 2001

Arrangement between the Minister of the Interior of the Federal Republic of Germany and the Minister of Justice and the Minister for the Public Force of the Grand Duchy of Luxembourg concerning Police Cooperation in the Border Area between the Federal Republic of Germany and the Grand Duchy of Luxembourg, Bonn, 24 October 1995

Arrangement between the Ministry of the Interior of the Federal Republic of Germany and the Minister of Home Affairs and the Minister of Justice of the Netherlands concerning Police Cooperation in the Border Area between the Federal Republic of Germany and the Netherlands, The Hague, 17 April 1996

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Poland concerning Cooperation in the Fight against Organized Crime, Bonn, 6 November 1991

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Poland concerning Cooperation between Police Authorities and Border Police Authorities in Border Areas, Bonn, 5 April 1995

Agreement between the Government of the Federal Republic of Germany and the Government of Romania concerning Cooperation in the Fight against Organized Crime and Terrorism and other Significant Offences, Bucharest, 15 October 1996

Agreement between the Government of the Federal Republic of Germany and the Government of the Russian Federation concerning Cooperation in the Fight against Significant Offences, Moscow, 3 May 1999

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Slovenia concerning Cooperation in the Fight against Significant Offences, Ljubljana, 2 March 2001

Treaty between the Government of the Federal Republic of Germany and the Swiss Confederation concerning Cross-border Police and Judicial Cooperation, Berne, 27 April 1999

Agreement between the Government of the Federal Republic of Germany and the Government of Ukraine concerning Cooperation in the Fight against Organized Crime and Terrorism and other Significant Offences, Bonn, 6 February 1995

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Uzbekistan concerning Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Bonn, 16 November 1995

Protocol on Cooperation between the Ministry of the Interior of the Federal Republic of Germany and the Ministry of the Interior of the Socialist Republic of Viet Nam on Preventing and Combating Crime, Hanoi, 28 February 1996

Multilateral:

European Convention on the Suppression of Terrorism, Strasbourg, 27 January 1977

United Nations Convention against Transnational Organized Crime, New York, 15 November 2000

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November 2000

Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November 2000

Council of Europe Convention on Cyber Crime, Budapest, 23 November 2001

Agreements on Mutual Assistance and Extradition

Bilateral:

Treaty of 14 April 1987 between the Federal Republic of Germany and Australia concerning Extradition

Supplementary Treaty of 31 January 1972 to the European Convention on Extradition between the Federal Republic of Germany and the Republic of Austria

Supplementary Treaty of 31 January 1972 to the European Convention on Mutual Assistance between the Federal Republic of Germany and the Republic of Austria

Treaty of 11 July 1977 between the Federal Republic of Germany and Canada concerning extradition

Supplementary Treaty of 2 February 2000 to the European Convention on Extradition between the Federal Republic of Germany and the Czech Republic

Supplementary Treaty of 2 February 2000 to the European Convention on Mutual Assistance between the Federal Republic of Germany and Czech Republic

Supplementary Treaty of 20 July 1977 to the European Convention on Mutual Assistance between the Federal Republic of Germany and the State of Israel

Supplementary Treaty of 24 October 1979 to the European Convention on Extradition between the Federal Republic of Germany and Italy

Supplementary Treaty of 24 October 1979 to the European Convention on on Mutual Assistance between the Federal Republic of Germany and Italy

Supplementary Treaty of 30 August 1979 to the European Convention on Extradition between the Federal Republic of Germany and the Kingdom of the Netherlands

Supplementary Treaty of 30 August 1979 to the European Convention on Mutual Assistance between the Federal Republic of Germany and the Kingdom of the Netherlands

Supplementary Treaty of 13 November 1969 to the European Convention on Extradition between the Federal Republic of Germany and the Swiss Confederation

Supplementary Treaty of 13 November 1969 to the European Convention on Mutual Assistance between the Federal Republic of Germany and the Swiss Confederation

Treaty of 20 June 1978 between the Federal Republic of Germany and the United States of America Concerning Extradition, in the version of 21 October 1986

Multilateral:

European Convention on Extradition of 13 December 1957

First Additional Protocol of 15 October 1975 to the European Convention on Extradition

Second Additional Protocol of 17 March 1978 to the European Convention on Extradition

European Convention of 20 April 1959 on Mutual Assistance in Criminal Matters

Additional Protocol of 17 March 1978 to the European Convention on Mutual Assistance in Criminal Matters

Convention of 8 November 1990 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

Convention of 10 March 1995 on simplified extradition procedure between the Member States of the European Union

Convention of 27 September 1996 relating to extradition between the Member States of the European Union

Agreements against Proliferation, Chemical and Biological Weapons etc.

Protocol for the Prohibition of the Use in War of asphyxiating, poisonous or other Gases and of bacterological Methods of Warfare, Geneva, 17 June 1925

Treaty on the Non-Proliferation of Nuclear Weapons, 1 July 1968

Convention on the Prohibition of the Development, Production and Stockpiling of bacteriological and toxin Weapons and on their Destruction, 10 April 1972

Convention on the Prohibition of the Development, Production, Stockpiling and Use of chemical Weapons and on their Destruction, Geneva, 3 September 1992

Comprehensive Nuclear Test Ban Treaty, New York, 10 September 1996

OSCE Document on Small Arms and Light Weapons, Vienna, 24 November 2000

UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York, 20 July 2001